

STAFFORD COUNTY PLANNING COMMISSION

May 5, 2010

The meeting of the Stafford County Planning Commission of Wednesday, May 5, 2010, was called to order at 6:33 p.m. by Chairman Gordon Howard in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Howard, Fields, Rhodes, Hazard, Mitchell, Kirkman and Hiron

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Roberts, Stinnette, Baker, Zuraf, Stepowany, Baral, Hudson, Forestier and Hornung

DECLARATIONS OF DISQUALIFICATION

Mr. Howard: Are there any declarations of disqualification for anything on our agenda this evening? Hearing none, we will move right into the unfinished business. And item 1 on the unfinished business is CUP290008 which is the Conditional Use Permit for White Oak Car Wash. I know, Mr. Fields, you were working on that.

UNFINISHED BUSINESS

1. CUP2900084; Conditional Use Permit - White Oak Car Wash - A request for a Conditional Use Permit to allow a car wash within a B-1, Convenience Commercial Zoning District, on a portion of Assessor's Parcel 54-59 consisting of approximately 3.65 acres, located on the south side of White Oak Road at Southside Drive and Potomac Avenue within the George Washington Election District. This development would include a full service car wash within a building approximately 6,000 square feet in size. **(Time Limit: July 6, 2010) (Deferred for meeting with applicant, VDOT and Mr. Fields)**

Mr. Fields: Right. We had an onsite meeting with VDOT and the client and their engineers and staff present. And actually, with VDOT's help, I think we looked through some possibilities that were not on the plans that we saw of ways of configuring access to that that certainly solved the problem to the best of the ability to solve the problem. So, the client is going to resubmit... I think I got a message they resubmitted the drawings and the application today so, as soon as staff has reviewed this and has their comments, we can bring it back onto the agenda to take a look at. But I'm encouraged by it. I mean, it's one of those things. I think everybody knows there's not some optimum things but I was thankful to VDOT for thinking outside of the box a little bit and coming up with a solution that is infinitely better than what we were looking at. So, hopefully, we'll have something that we can get forward.

Mr. Howard: Great, thank you. Thanks for the update. So, we'll leave it on there; we have until July 6th.

Mr. Fields: Jeff, I got an email from Debrarae; she said they submitted the new drawings today. So I guess...

Mr. Harvey: Correct. And we anticipate we could have the drawings submitted to the Commission with revised conditions shown on the drawing for your next meeting.

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Mr. Fields: For the next meeting? Okay. I'm not pressuring you. I know they are under a little timeframe but we have until July 6th and I don't know that a few weeks here and there matter, just as long as it's done thoroughly. So, I appreciate that.

2. Redevelopment Area Plans - Boswell's Corner, Courthouse Road, Southern Gateway and Falmouth Village (Southern Gateway and Falmouth Village in Committee - Peter Fields and Scott Hirons) **(Deferred to May 5, 2010)**

Mr. Howard: Great, thank you. Then there is item 2 which is the Redevelopment Area Plans for Boswell's Corner, Courthouse Road and Southern Gateway. And the reason this is still on here is for the Falmouth Village, Mr. Fields and Mr. Hirons were trying to coordinate a meeting and I'm not sure if that has...

Mr. Fields: Which we had yesterday morning, and actually a very good meeting. I thought pretty thorough; we went about an hour and a half and really kind of talked through a lot of the Falmouth Village issues.

Mr. Hirons: Yeah, we sure did. It helped me kind of see where it was before, where it's going and get some good ideas and thoughts out there.

Mr. Fields: So, I think what we have to ask staff to do is come back with some revised language for that one segment of the RDA so that the Planning Commission, which has been asked to give its advisory opinion on incorporating the RDAs as part of the Comp Plan, we want to at least have sort of a provisional... we know that we can't completely redo the document because redoing the document with all the drawings and all of the details that were in it, of course, would cost a lot of money for an outside consultant. But we're looking to hopefully amend the text and give a general idea of how I think the Committee had generally consensus, perhaps a couple of variations of opinion, but generally kind of getting to where we had consensus and what we think might be a slightly, more germane, version of that to include. And even though it was kind of advertised, and I think there was a little confusion... you probably noticed that too Scott... it was advertised as being Falmouth Village and Southern Gateway. But Southern Gateway really wasn't part of the discussion. That RDA was not really that committee's concern specifically because I think everybody thinks that version of the RDA is fine. Second, it's concern was primarily between George Washington and Falmouth Districts because of that location. And though I have an opinion on the Gateway RDA, it's really not my business. It's more up to Mr. Hirons and Mrs. Hazard really. So, hopefully we'll get some revised language when you guys get a chance to do that and then we can look at it then.

Mr. Howard: So, Mr. Harvey, when do you anticipate that would come back before us?

Mr. Harvey: I think we will probably need maybe thirty days. I guess the one protocol question is should we go through the committee first before it comes back to the Commission or do we want to just come straight to the Commission?

Mr. Howard: I will defer it to Mr. Hirons and Mr. Fields on that.

Mr. Fields: You can give your opinion Scott. I think we felt that we had done what we needed to do as the committee and if that could just come to the Commission. I know we expressed an opinion that we didn't want to unnecessarily delay the process.

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Mr. Hirons: I don't think there was any real controversy or any disagreement really with what we wanted. So, I think coming straight to the Commission is going to be sufficient.

Mr. Howard: Great. So the first meeting in June?

Mr. Harvey: Yes sir.

Ms. Kirkman: Mr. Chair? Could we get clarification on either the differences or areas of overlap between the Redevelopment Area Plans and the Urban Development Areas, which I believe both Mr. Fields and Mr. Hirons are on the committee related to that?

Mr. Howard: We will have the committee updates later on in the agenda.

Ms. Kirkman: Well, I'm just asking for a clarification about either the differences or distinctions between the two.

Mr. Fields: I don't really believe, at least in the discussion on the Falmouth Redevelopment Area... I mean the Redevelopment Areas, the UDAs are not part of the conversation.

Ms. Kirkman: So, the UDAs are something different than...

Mr. Fields: I haven't been able to attend either meeting so you will have to ask someone who was there.

Mr. Howard: Again, we'll have a committee meeting update later on; it's on the agenda and we will have the update.

Ms. Kirkman: And somebody can provide a clarification about the distinction between the two at that time?

Mr. Howard: Ms. Kirkman, we'll have an update on the committee meetings later on this evening, as we always do.

Ms. Kirkman: Okay, thank you.

3. Groundwater Management Ordinance (**Deferred to May 5, 2010**)

Mr. Howard: Okay, the third item on the agenda is the Groundwater Management Ordinance which was deferred to today, May 5th. Mr. Harvey?

Mr. Harvey: Mr. Chairman, Rishi Baral has the update.

Mr. Howard: Great.

Mr. Baral: Mr. Chairman and members of the Planning Commission. Basically I have two points to update today. One was the proposed ordinance was to be reviewed by the Department of Health and the Department of Utilities. We forwarded it to the departments and the Department of Utilities did not have comments and the Department of Health had one comment. And it was about the distance of 100 foot versus 200 foot and we went back and made a change to the ordinance to meet the

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Department of Health comments. And after that, the other thing was, which I have presented in the packet today, is about the affect this ordinance may have on the current parcels or homeowners. I have created a spreadsheet which is presented today like this, in color. What this chart is trying to show is all those red colors are additional restrictions that are being provided to the parcel. For example, the first one, septic systems, it is red. Previously it was BR, by-right. Let me go back further; first row I had thirty-nine percent, fourteen percent, eleven percent, that is the breakdown of all these zones within the groundwater management area, wellhead protection area. And within that range, we have more restrictions because of the groundwater management overlay. By-right I have put the red color; the red color means they will either require a CUP or they will be prohibited. The first item in the first row, Conditional Use Permit required per Groundwater Ordinance. Whereas, in the same thing, it was by-right for item a. What it means is all those red items are the items in which we are asking to be more stringent. In yellow, all those items I have colored yellow, there are no restrictions because of the ordinance.

Mr. Howard: So, just for clarification, if it's red today, it was by-right previously. And now it will be impacted with this ordinance.

Mr. Baral: That's correct.

Mr. Howard: Okay. And, if it's yellow, it's unchanged.

Mr. Baral: That's correct.

Mr. Howard: Okay. So the designation stays the same. If it was a CUP previously, it's still required?

Mr. Baral: That's correct.

Mr. Howard: Okay. That seems like a lot of... and when you said the Department of Health made a recommendation to change the buffer, what did it change to?

Mr. Baral: That is on page 3 of the ordinance, item (c)(1)h, known potential sources of contamination. It was 100 feet from site boundary previously but the Department of Health recommended it to be 200 feet from the boundary.

Mr. Howard: And is that what we had in there before? Is that the same language?

Mr. Baral: The same language, only 100 is replaced by 200 feet.

Mr. Howard: So, 100 is increased to 200?

Mr. Baral: Yes.

Mr. Howard: And is there a particular Virginia State Code on the...

Mr. Baral: We went by the recommendation of...

Mr. Howard: No, I understand that. But on the groundwater management, does the State of Virginia have a code on that?

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Mr. Baral: I think so.

Mr. Howard: And what does the State require?

Mr. Baral: According to the Virginia Department of Health or according to State regulations?

Mr. Howard: State regulations.

Mr. Baral: We believe that whatever recommendation received from the Department of Health was in agreement with the State Code and I don't have the State Code reference number handy.

Mr. Howard: Okay. Mr. Harvey, could we get that at some point?

Mr. Harvey: Yes sir.

Mr. Howard: As a reference; okay. So, we don't know necessarily the number of parcels impacted. We just know there's an awful lot of parcels potentially that could be impacted.

Mr. Baral: Yes. This chart shows the percentage of the parcels and this chart doesn't show the total number of parcels, but that could easily be tracked.

Mr. Howard: Okay. Is there anything else to add?

Mr. Baral: I think that's all I have to present.

Mr. Howard: Hold on one moment. Are there any questions for Rishi on this?

Ms. Kirkman: Yes, Mr. Chair. So, Rishi, on the not listed, I just want to clarify what the meaning of that is. So, for instance, under not allowed for the groundwater ordinance, (a) sanitary landfill, not listed under A-1. Does that mean it's not listed as a use under A-1?

Mr. Baral: Previously it was not listed in our Zoning Ordinance and whatever is not listed, if that kind of activity is to come, usually that will come through a Conditional Use Permit. And this "NL" in red color means we are putting new restrictions and that will be CUP.

Ms. Kirkman: Could I get a clarification from staff on this. For instance, on sanitary landfill, is that listed in any of our Zoning Ordinances as either by-right or CUP?

Mr. Harvey: Ms. Kirkman, Mr. Chairman, I can check; I have the Code with me. I don't recall specifically but if you give me a minute while we're discussing this, I will look that up.

Ms. Kirkman: I just want to make sure because it's a little alarming to see this block of red and, in fact, it may be a little misleading the way it's presented because if it's not listed as a current use, it may be listed in another area. So, I just want to verify exactly what we're trying to get at here.

Mr. Howard: So, Ms. Kirkman, can you rephrase the question? What is it that you're asking actually? You wanted to know if the sanitary landfill was part of the original...

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Ms. Kirkman: Well, there are a number of uses that are listed here that have an “NL” beside them which are not allowed per the groundwater ordinance. But they’re also not allowed currently by our current ordinance. Is that correct? Because they’re not listed.

Mr. Baral: That’s correct.

Ms. Kirkman: So that’s why I think it’s a little not clear what “not listed” means. Because the red seems to imply it’s doing away with something that’s currently allowed and, in fact, for at least the first three, those are not currently allowed in those land uses in our current Zoning Ordinance. Is that correct?

Mr. Baral: Actually, those not listed, more than likely, they would require a CUP as of now. And the red color means they will be prohibited with the groundwater management ordinance.

Mr. Howard: Right, that’s what you said in the beginning. So, the sanitary landfill, as an example, would in today’s world require a CUP. Tomorrow, if this were to pass, it’s not allowed; the CUP wouldn’t be allowed for that particular use. Is that correct?

Mr. Baral: In this sanitary landfill, it would be CUP now but tomorrow it will be prohibited.

Mr. Howard: Right.

Mr. Baral: Yes.

Mr. Howard: So, it is actually illustrating a scenario where you could have come before the Planning Commission and obtained a CUP but, in the future, that will not be permitted if this ordinance were to pass, as it’s written. Is that correct?

Mr. Baral: Yes.

Ms. Kirkman: That’s what I’m waiting for clarification from Mr. Harvey is we don’t actually have sanitary landfills listed anywhere.

Mr. Howard: Well, we have clarification. We’ve just been told that the sanitary landfill will be prohibited should this ordinance pass as it’s currently written.

Ms. Kirkman: I’m waiting to understand what our current ordinance says.

Mr. Howard: The current ordinance requires a CUP.

Mr. Fields: Well, we have a very large sanitary landfill. I would think whatever that is, is probably what our current rules are.

Mr. Howard: Right. But it’s on these impacted areas because of the buffer zone increments, that’s why.

Mr. Baral: While preparing this spreadsheet, I worked closely with Jamie Stepowany.

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Mr. Howard: Mr. Harvey is looking it up. If we can find it, we'll try to get an answer, but it seems fairly black and white to me.

Ms. Kirkman: And the Planning Commission did just make some recommendations about mineral extractions, so that line may no longer be correct. Or we're in the process of considering some recommendations regarding mineral extraction.

Mr. Howard: Under the current Zoning Ordinance, sure. No matter what happens with the current applicant, I'm not sure this would impact that. Okay, any other questions?

Mr. Rhodes: Mr. Chairman? I'm just trying to make sure I understand this. What is thirty-nine percent, under CUP required, per Groundwater Ordinance, A-1 Agricultural, what does thirty-nine percent represent?

Mr. Baral: One hundred percent is the total area on the Groundwater Management Ordinance and of that 100 percent, thirty-nine percent would be covered under A-1 Zone, fourteen percent in R-1 zone. There are different zones in the Groundwater Management area.

Mr. Rhodes: Okay, got it; thank you. The other question on septic systems; so, if somebody has a three acre lot and they have no public water, does this mean they now have to get a CUP to do a septic system for that house?

Mr. Baral: That's correct.

Mr. Rhodes: Okay, thank you.

Mr. Howard: Thank you Mr. Rhodes. Any other questions?

Mr. Fields: Yes. Actually, as I'm looking now at the text and trying to decipher this, it says on page 2 here of the memorandum, "because of the potential groundwater pollution risk... the following activities...", and this is what we're looking at, "sanitary landfill, mineral extraction..." etcetera, that set of not allowed, (a) through (f), in the Coastal Plain Aquifer Recharge Zone and Wellhead Protection Zone. And then we have this map... do we have a map that shows what these areas are? I know when I'm trying to look at this Coastal Plain Aquifer Recharge Zone, is that the area bounded by the blue and the yellow?

Mr. Baral: That's correct.

Mr. Fields: And then where's the Wellhead Protection Zone? Or is that not shown on this map?

Mr. Baral: The Wellhead Protection Zone is not shown. As defined, the Wellhead Protection Zone is within the certain foot of radius within the community well.

Mr. Fields: A community well?

Mr. Baral: Community well, yes.

Mr. Fields: Of which there's how many in Stafford? How many community wells are there in Stafford?

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Mr. Baral: There are not more than ten; I previously prepared that report. Most of them are for mobile home parks.

Mr. Fields: So, this large block of “not allowed” is actually referring to very specific areas; not to the entire County. It’s primarily around the Fall Line. And by prohibited, we have two different lines and maybe you’ve told us this. So, the area where it’s not allowed, these uses (a) through (f) are not allowed in the Coastal Plain Recharge Area, is that not allowed in the blue 2,000 foot buffer area or not allowed in the one mile buffer area?

Mr. Baral: One thousand feet on one side and one mile on the other side of the Fall Line.

Mr. Fields: Okay. And the Fall Line being that black line, so it actually encompasses both. Our landfill is almost in that, isn’t it?

Mr. Howard: It’s close. The missing piece is actually the number of potential units that will be impacted. Rishi has the percentage based on the current zoning of a particular parcel, but we don’t necessarily know the number of dwellings that will be impacted.

Mr. Baral: I don’t have that number at this time, but I can quickly find it out. When working these percentage numbers, I went through the number of parcels also.

Mr. Howard: That would be good to have.

Mr. Baral: I don’t remember the number now.

Mr. Fields: Again, a lot of these “not listed”, like landfills, mineral extraction and land sludge application, if you look at that Coastal Plain Recharge Area, general practice of land use patterns in the County would have most of those uses not very likely in that area most of the time anyway. It’s not along the river banks so it wouldn’t be gravel extraction and it doesn’t look like it goes along any of that seam of granite that we’ve been talking about last week. And land application of sludge is primarily agricultural in nature and this is really very non-agricultural in its character. I’m just trying to get to the bulk of it because it looks, you know, when you see “not allowed”, three uses like landfill, mineral extraction and land application of sludge simply not allowed, it seems somewhat alarming and I’m just trying to get down to what actually is the chunk of land that we’re talking about. And it’s primarily this strip.

Mr. Howard: And I would also be interested in knowing the number of potential dwellings that could be impacted, because I honestly don’t know how many people may have a septic in that radius that you just described to us, how many people have an above-ground fuel storage tank. So, there are some things where homeowners could be impacted in a way they would never have thought of based on the way the Zoning Ordinance is written.

Ms. Kirkman: Mr. Harvey, I just want to make sure; if this were passed, it would only affect future development. So it would not impact current homeowners, is that correct? So, if somebody already has a septic system, they would not then be told they could not have that septic system, is that correct?

Mr. Harvey: Yes, since this is in the Zoning Ordinance, existing uses would be considered to be vested or grandfathered for the change in the code. It would apply to new development; however, if

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somebody was to put an addition on their house or require them to redo their septic system, then it may kick them into a need for a review of a Conditional Use Permit or something of that nature.

Ms. Kirkman: And then, Rishi, probably the biggest concern is the onsite sewage disposal restrictions and you note that thirty-nine percent of the area that would be in this now is A-1. But how much of that lies within the Urban Service Area so they would have to connect to public water and sewer and would not be using onsite sewage disposal? That seems like an important piece to add to this.

Mr. Baral: Sure.

Mr. Howard: He has this. I thought the Urban Service Area was outlined here on the map?

Ms. Kirkman: But in terms of the numbers he gave us...

Mr. Howard: The numbers are not there, just the percentage.

Mr. Harvey: Mr. Chairman, I have reviewed the Zoning Ordinance with regard to the question of sanitary landfills. It's not listed in any of the zoning categories and it's not defined. However, we do define public works and that's basically a county run facility or a state run facility. So, a sanitary landfill could fall under that definition. Public works are allowed by-right in most zoning districts. There is a caveat under most of the public works listed uses that they exclude sewage treatment plants and sewage treatment plants would have to get a CUP. That could be something that the Commission may want to consider whether if you wanted to specify sanitary landfills in the same manner. Much like a sewage treatment plant, there's very specific locational criteria, they are operated by the County and are very limited in their capacity to put in conditional ones.

Mr. Howard: Thank you.

Mr. Fields: Mr. Chairman, I'm assuming right now, since we don't have it listed, that actually private landfills are no longer even possible in Stafford, is that correct?

Mr. Harvey: That's my understanding that they have to be municipally run.

Mr. Fields: The only reason I mention it, Mr. Mitchell did too, we both served on the R-Board. I would just indicate that it doesn't really much matter what local... well, it does matter... but I mean, no matter what local ordinance we have, the level of DEQ and EPA scrutiny a landfill has is pretty extreme. So, you can imagine that anywhere a sanitary landfill is going to be, it's going to be tightly, tightly regulated, as it should be. The convergence of sanitary landfills with our groundwater ordinance is probably not necessarily a large component of the consideration of the groundwater ordinance because the regulation of sanitary landfills, since they are all municipal and their regulation by DEQ and EPA is extreme.

Mr. Howard: Thank you. Ms. Kirkman?

Ms. Kirkman: Mr. Chair, I just want to... Jeff, if I could get clarification on that because my understanding is that we have this huge gaping hole in our Zoning Ordinance which is if it's a use not otherwise listed, you can apply for a CUP. So how... if you could explain how private landfills would be prohibited. Why couldn't they just apply for a CUP?

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Mr. Harvey: They could from a zoning standpoint but, I think, as Mr. Fields was saying, from a state permitting standpoint, they would want to make sure that a local government is responsible for that landfill.

Ms. Kirkman: Okay, so it has to do with the permit process, not with our Zoning Ordinance.

Mr. Harvey: Correct.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Thank you. So, Rishi, I think what the Commission is asking is to just understand potential homes and/or lots that are impacted.

Mr. Rhodes: Mr. Chairman, just to add to that; again, because of the potential impact to hit somebody with a CUP in order to do something, the number of lots that are in the impacted areas, just to clarify, developed and not developed, correct, broken down by each. Plus even those that are in the Urban Service Area and not in the Urban Service Area, in those categories. I think that would be informative to see the potential for unintended consequences. Thank you Mr. Chairman.

Mr. Howard: Thank you Mr. Rhodes. Did you get that?

Mr. Baral: Yes, I got that. Two things, number of parcels and lots and the current status of the land, whether it is developed or...

Mr. Howard: Right, and then identify what's in the Urban Service Area as the Urban Service Area exists today and what's not.

Mr. Baral: Okay, thank you.

4. Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) **(Time Limit: October 6, 2010) (Deferred to May 5, 2010)**

Mr. Howard: Thank you. Then, item number 4 is the Rappahannock River Overlay District and the Potomac Overlay District which was referred back to us from the Board of Supervisors. And we have until October 6th on this. And this is something we had asked for guidance on really from the Board of Supervisors I believe, is that right Mr. Harvey?

Mr. Harvey: That's correct Mr. Chairman. What we've outlined in our memorandum is a series of options that the Planning Commission could consider in trying to spur on the thought process with regard to overlay zones. The Board, in their referral back, had suggested that the Planning Commission look at both the Aquia and the Rappahannock River Basins. When you take into account the drainage areas for both basins, you've encompassed the entire County. But some of the options to consider is creating a new overlay district and following the Potomac River Resource Protection Overlay standards that were proposed in that Ordinance. We would have to take a look at making sure that the Ordinance was clear in that it was either going to be a text amendment or map amendment. That was one of the issues with the court case. Also, we could look at do we want to have different measures within the watersheds and should we prioritize sub-watersheds, and that's going with the existing regulations. Some other options would be that it also may be used to improve water quality, it could be imposing a twenty-five foot wide buffer along intermittent streams, have requirements for

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retention of forested open space, or have incentive-based or voluntary measures such as vegetated roost rain barrels, buffers along stream channels and additional wetlands protection and avoiding steep slopes. Then we've provided additional information about some of the reasons why we need to consider doing this from the standpoint of the Chesapeake Bay Act implementation. And we can answer any questions that the Commission may have about Bay Act implementation. In general, the State is going to require us to have some sort of additional measures of protecting land beyond the resource protection areas that we currently have. So, whether they are protecting slopes, protecting wetland areas, protecting intermittent streams, that's yet to be determined but that is certainly something that gives us positive points with the State as far as meeting their goals for evaluation of our local program.

Mr. Howard: Mr. Harvey, we're really talking about I guess Phase 3 of the Chesapeake Bay Act and the implementation? So, Phase 1 was mapping the Chesapeake Bay preservation areas and adoption of programs, Phase 2 was the adoption of required Comprehensive Plan components, and then Phase 3, which apparently goes into effect, I think, next year?

Mr. Harvey: Yes, September of 2011 we get evaluated for our Phase 3 compliance and, at that point in time, they will determine whether we comply or not. So, some measures dealing with this type of overlay district can give us points towards a positive rating by the State.

Mr. Howard: Okay. You threw out a lot of information.

Mr. Fields: Mr. Chairman? I would just like to offer that if we decide collectively that there needs to be a type of overlay in the Rappahannock Basin, that we're in a better position here because of our localization between the work done and... this kind of refers to the 2004 study... between the work done by the Friends of the Rappahannock and the Rappahannock River Basin Commission, this sort of ground work, informational work and conceptual work is really just kind of sitting there ready for us to move forward to some degree. I would hope if we move forward, inclusion of those two groups would save us all a great deal of time and effort.

Mr. Howard: I agree. There's been a lot of work done; a lot of people, a lot of effort. I'd like to look at it. I'd actually like to bring this back to a work session and the will of the Commission certainly shall prevail, but bring it back with some maps with some other components that we've looked at. And maybe, I don't want to put too much work on staff, Mr. Harvey, but clearly it's important for a lot of reasons. Certainly we want to be in compliance but we also do want to protect out natural resources. The Chesapeake Bay is a great natural resource that we get to enjoy here in Stafford County. And we want to see that continue for sure, without being the cause of some of the problems that currently exist in the Bay. I'm in favor of bringing this back and really devoting some time, maybe an hour, to a work session where we can get staff to come in, review what we would have to change in some of the codes and some of the zoning, and to Mr. Fields' point, work that's already been done and recommendations that have already been made. It would be good to see that. And then see the visual of what that looks like on a map and have all of us at least take some time to read through that and understand that.

Mr. Harvey: Mr. Chairman, we certainly can give you the materials that already exist and try to give you an executive summary at a future meeting.

Mr. Howard: With a presentation as an overview, that would be great.

Mr. Harvey: Yes.

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Mr. Howard: What are your thoughts on how long that would take to get together?

Mr. Harvey: If you can give me a minute, I can confer with the staff and see what they recommend.

Ms. Kirkman: Mr. Chair, as part of that I think it would be helpful; the Ches Bay Act came out of a voluntary agreement among the Ches Bay States to come into compliance with the Clean Water Act. And there were certain standards to be met by 2010. I understand there's been some movement at the federal level around the Clean Water Act and Virginia's progress, or lack of progress, in meeting the 2010 standards. So, I think as part of that presentation, it would be helpful to get an update on (inaudible).

Mr. Howard: On where we are currently in 2010? Sure. We can ask for that, thank you.

Mrs. Hazard: Mr. Chairman, the second paragraph, when it talks about the new requirements concerning the new total maximum daily load limits for nutrients and sediments, I have a very cursory understanding of what that is. I would personally just like a little bit more of what we see coming down, and I'm sure that's part of their same analysis, but even just a quick overview, for me at least. I have a basic but when we start really putting here, there and setting these goals, I'd like to really feel like I understand the requirement.

Mr. Howard: That's a good point.

Mr. Fields: Mr. Chairman, I'd just like to offer Mrs. Hazard, since she is the other Supervisor on the Rappahannock River, whatever, an hour or two hours of your time that would be infinitely worth it would be to simply go down to FOR and talk to John Tippet. He's brilliant, he will sit down and explain as long as you need, want to talk and want to ask questions, he will explain in detail; and he'll do that with anybody here. But, I mean, since you and I share the Rappahannock River he would be more than happy to do that. There's other great resources, I'm just saying that that's how I've gotten myself up to speed over the years and he's a tremendous resource and he is willing to share his knowledge. You will come out feeling like you've been doing this stuff for years. He is great.

Mrs. Hazard: I appreciate that. But I still would like at least a staff overview too of how our compliance with this (inaudible).

Mr. Howard: Well, compliance; and there's also measurement components and performance results that you are measured on as well. I'm not sure I understand or remember how we were going to do that. Mr. Harvey?

Mr. Harvey: Mr. Chairman, staff can come back at your next meeting and give you an overview of the existing information that we have. I guess one question we have is with regard to the Clean Water Act. What sort of information is the Commission interested in, because it's a very broad...

Mr. Howard: Well, I guess just kind of high-level, Mr. Harvey, there were some requirements that had to be in place by 2010. Did we meet that or not? If not, what do we have to do when we make the change or we create the Rappahannock River and Potomac Overlay Districts; what do we have to incorporate into that, sort of retroactively from whatever date we passed this so we're in compliance with the 2010 and the 2011. So, I think we just want to know that. Does that make sense?

Mr. Harvey: Yes.

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Mr. Howard: Okay. And then, also, some of the measurements with the total maximum daily load, there were limits for nutrients and sediments. So, what's the thoughts, from a County perspective, on how do we measure that? Where are we at today and if we have this plan two years from now, what's the expected improvement? I'm not asking for these answers now but that's the pieces I don't recall when we went through this the first time and where we landed on that.

Mr. Harvey: Some of the information with TMDL is still developing as far as what our load rates are going to be and how we can reduce load rates or maintain load rates. And that's something the EPA is working on. So, we can give you some overall broad information on that.

Mr. Howard: Okay, that would be helpful.

Ms. Kirkman: Mr. Chair, one other piece of information that doesn't necessarily have to be presented but might be useful background information is a list of impaired streams in Stafford County. A lot of folks might look at that and say "ewww, I can't believe I let my kids play in that". But it might be useful to have as a reference material.

Mr. Howard: Sure. Mr. Harvey, can you provide that as well?

Mr. Harvey: Yes.

Mr. Howard: And again, if that's not ready for the next meeting, that's fine. But that's something... in the future, as we move forward, that actually would be good to understand that. It may help other people understand also some of the actions within the ordinance that we're taking so they have a better perspective on what it is we're trying to accomplish. Any other questions from the Commission on this subject? Okay, hearing none, we will move onto item number 5 on the agenda which is the discussion of medical and dental clinic definitions which was deferred to today. And will we have staff presenting anything?

5. Discussion of Medical and Dental Clinics Definitions (**Deferred to May 5, 2010**)

Mr. Harvey: Mr. Chairman, my recollection from my notes were that there were some questions about the supervisory aspects in the definition.

Mr. Howard: Yes, I did watch the video and I did hear those questions. And I can give you a real short answer on that if you need it, if you guys weren't able to research that. Most medical facilities, and also in the medical field, they have oversight of a board. So, an example would be, there's the medical board that would have oversight of physicians, there's boards that have oversight of nurses. I also heard some of the discussion was how many of a particular health care professional you'd have in a building. Well, the truth is, that's not in the purview of any county in America honestly. That would be dependent on that particular State's board and, to a certain extent, there's ratios they create. So, one example would be if you have X amount of licensed physicians in a building, you could have X amount of nurses as a ratio; certain nurses with different certifications and licensing requirements and so on and so forth. So, another example would be I heard the term clinic come up; clinics are very different than offices. A clinic, in the State of Virginia as an example, with a nurse practitioner, can actually function and operate without having direct oversight of a physician. However, clinics, for every four clinics in the State of Virginia that are run by a nurse practitioner, one licensed physician in that State has oversight of the four clinics and does not have to be onsite. So, I am just giving you

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some examples, but there are a lot of rules and regulations already in place. I'm not sure that's a route we can even travel nor would we want to even attempt it, I don't think. Mrs. Roberts, is that fair?

Mrs. Roberts: Yes, after the last meeting, I did do research and you're absolutely correct. The regulatory boards do exactly what you state and regarding the supervision issues, even the State Code doesn't define what supervision is. For example, the nurse aid practice, such services are performed under the supervision of a dentist, physician, etcetera. So, I think you are absolutely right that this is covered under State Code and we don't have the authority to define it otherwise.

Ms. Kirkman: So, Mr. Chair, I had raised this issue because we include, in our definition, supervised by a licensed professional. So, Ms. Roberts, does that mean that your recommendation then is that we remove that from...?

Mrs. Roberts: No.

Ms. Kirkman: Well, I'm just wondering... if we don't... So, if somebody is trying to interpret the law and we don't have a definition...

Mrs. Roberts: Well, because under State Code it says the supervision must be performed under a dentist, physician, podiatrist, professional nurse, licensed practitioner nurse, etcetera, etcetera, who are all defined under the regulatory boards. So they are already defined under who is allowed to supervise.

Ms. Kirkman: So, I like don't have a dog in this fight. Just having served on the BZA I know the kinds of arcane questions we get presented with there and this was raised originally, my understanding, the origin of this was Mr. Fields had some concerns about non-traditional practitioners being able to fit in within this definition. And I'm not sure how what's before us meets that need.

Mrs. Roberts: Well, I have to admit I was quite surprised at the different professions and medical, not physicians, medical providers who are defined and who each have their regulatory boards. So, I think, under our ordinance, I think it works hand in hand with the State Code and I don't see what we could add that would either assist in interpreting it and might go against what the State Code provides.

Mr. Fields: Yeah, I think we've worked this as far as it's going to work. We should just move on I guess.

Mr. Howard: Okay. Thank you. Item 6 on the agenda is the Reservoir Protection Overlay District.

Mr. Harvey: Mr. Chairman, may I interrupt? This medical and dental clinics definition has not been heard at a public hearing. Staff is awaiting a proposed date for a public hearing.

Mr. Howard: I would like to have it... I was looking for the original document, I thought I brought it with me. I would like to have the definition actually rewritten actually so can it come back to the next work session?

Mr. Harvey: Yes.

Mr. Howard: And I had a recommendation I'll email everyone; I just don't have the document in front of me. I thought I brought it with me. Did anyone else have any thoughts or comments or changes

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that they thought through on item 5 which is the medical and dental clinic definition? Okay. Thank you.

6. Reservoir Protection Overlay District (**Time Limit: January 29, 2010**) (**Deferred to May 19, 2010**)

Mr. Howard: So, the Reservoir Overlay Protection District which was deferred to May 19th so we'll leave that on May 19th.

7. Amendments to the Comprehensive Plan (**Time Limit: June 1, 2010**) (**In Comp Plan Committee**)

Mr. Howard: Then Amendments to the Comprehensive Plan. Mr. Harvey and I had a discussion at one of the work sessions at one of the subcommittees. We determined that we were not going to meet that June 1st deadline and that we were going to ask for an extension. And, Mr. Harvey, I don't know if you have the outline to share with everyone here in terms of the timeframe.

Mr. Harvey: No I do not, but I can go get copies.

Mr. Howard: Okay. So, if we can get a copy and just share with everyone what our thoughts are and what timeframe we think we're working with. Basically, the goal at this point, would be to at least get to a public hearing in September. And there's a lot to do here in this Commission to bring information, and this sort of goes back to Ms. Kirkman's comment earlier, to really share with the Commission as a whole the work that's been done, show the work that was done from the prior Commission that remains in place and intact, which is quite a bit that remains the same. And there is also some other changes based on some of the RDA discussions we've had and also some of the UDA discussions that we've had here in the Commission and also some of the public presentations, as well as thinking through some of the bond referendums that passed last year and how do they get included and added and incorporated into the Comprehensive Plan. So, what I'd like to do actually, I know Holly will give us an update later but I would like for the next work session is to have both committees bring in the work, share it with everyone as a whole, make it part of the minutes and notes, this way people are feeling comfortable about at least what's being worked on and what's being discussed and I certainly would like to get some impact and feedback from the Planning Commission as a whole as well. Does everyone agree with that or... I'm kind of deferring to the will here of the group... to bring that information in for the next work session?

Mr. Fields: Sure; why not?

Mr. Howard: Okay. And we'll share the timeline tonight before we leave the building. And then we've deferred the Elimination of the Preliminary Subdivision Plan Process. Okay, we're onto new business. So, Nonconforming Structures. We have five minutes.

8. Elimination of the Preliminary Subdivision Plan Process (**Deferred**)

Ms. Kirkman: Mr. Chair, I have a question about the elimination of the preliminary subdivision plan process. Is that deferred... is that postponed indefinitely which means no action will be taken on it, at which point shouldn't the Commission just acknowledge no action is going to be taken on it and just remove it from the agenda?

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Mr. Howard: We should if that, in fact, is the direction and the will. And I would defer to Mr. Harvey for his perspective on that from the staff's perspective. I know we've talked about it here several times; it does not seem like something that could be easily done or done as easily as originally thought when this idea was first advanced.

Mr. Harvey: Yes, Mr. Chairman, from staff's perspective in coordination with VDOT and other County agencies, it seems that the elimination of the preliminary plan poses some significant problems for both Utilities planning, as well as for VDOT. VDOT, with their process of acceptance of streets, they've changed their process now where you have to develop a point system for your subdivision based on connectivity. Their concern is if you have a limited scope on the plan, you may not meet the connectivity requirements and/or be able to get your streets accepted into the State system. Also, it affects your ability to plan for the ultimate right-of-way and lane configuration if you only have partial pieces of the plan.

Mr. Howard: So, it's really not feasible; it's not something that we could easily do from a County perspective. Even if we wanted to, it sounds like we would meet some resistance and it would complicate or convolute the issue.

Mr. Harvey: From a staff perspective, it would pose a number of problems, yes.

Mr. Howard: Well, then we'll bring it back to the Commission and I will defer to the will. If someone wants to make a motion to have it removed from the agenda we can do that.

Mr. Rhodes: Mr. Chairman, I certainly would acknowledge the tremendous efforts and work of the staff to explore the multiple variations and alternatives with this and the well-intentioned desires to pursue it. But, at this point, would make a recommendation that we remove it from our agenda and close out this item.

Mr. Mitchell: Second.

Mr. Howard: Okay, the motion has been made; it's been seconded by Mr. Mitchell. Is there any discussion on the matter?

Ms. Kirkman: Mr. Chair, I'll support the motion not because I support the notion of doing away with this concept, but I think it's inevitable. So, there's no sense in keeping it on the agenda since there's absolutely no intention of acting on it.

Mr. Howard: Okay. I also want to echo the comments of Mr. Rhodes and thank staff. There was an awful lot of work and effort put into this and I think it was a great thought and potentially could save a lot of time and money, but it doesn't seem like it's something that's feasible. Any other discussion?

Mr. Fields: I would echo Ms. Kirkman's sentiment. I'm not happy that we're abandoning it but I see the obstacles to it are pretty formidable. And again, I would also echo the thanks to the staff; they had to do a lot of thinking and a lot of work and a lot of research and I certainly do appreciate that. It brings us back to the same old issue. And I hope everybody understands, and I think everybody has had that and their remarks indicate that. It was a valiant attempt to get at one of the most pernicious issues of making land use decisions in Virginia, which is the enormous amount of vested property and the way the generous vesting situation in Virginia that allows people to essentially sit on plans for years and decades and decades without doing anything, which makes the work of the Planning

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Commission and the Board of Supervisors very difficult because you are always dealing with that. So, that's what that whole exercise was about, trying to get at a very real problem that's difficult to get at; so I appreciate everybody's work and thoughts.

Mr. Howard: Thank you Mr. Fields. Any other comments? Hearing none, I'll call for the vote. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. All those opposed say nay. The motion carries 7 to 0. Now onto new business; the nonconforming structures. We won't have enough time, thank you. So, I would take a break but I'm afraid none of you would come back by 7:30. We have a packed audience for those of you watching at home. So, we have two minutes. Jeff, what do you have in two minutes that we can take care of? Anything from the Planning Director?

Mr. Harvey: I can give my Director's Report, Mr. Chairman.

Mr. Howard: Real quick, two minutes. You did it in four minutes last meeting; I watched the video. So go ahead.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Great. Thank you. On May 18th the Board will be hearing a presentation from Ted McCormick of VACO regarding Transfer of Development Rights and the Board has asked the Commission, or extended an invitation to the Commission if you'd like to attend, please do. It will be during the one o'clock session. Transfer of Development Rights will be an important part of the discussion with the UDAs with the Comprehensive Plan. It's one of those factors that we have to consider in our Comprehensive Plan.

Mr. Howard: What's that date again Jeff?

Mr. Harvey: May 18th.

Mr. Howard: May 18th. And where's the meeting?

Mr. Harvey: Here in the Board Chambers.

Mr. Howard: Okay.

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Mr. Harvey: Last night the Board referred two ordinances to the Commission which we've provided copies at your desk dealing with the definition of administrative officer and written order, as well as changing the timeline for issuing a zoning determination. This comes out of a House Bill that was just recently signed into legislation, House Bill 1250, which extends what's determined as an affirmative governmental act to decisions made by the Zoning Administrator or other government officials. The Board has some concern that the way the legislation is written, it's very broad. So, these ordinance amendments would potentially narrow down who can make those types of decisions, what those decisions are that constitute an affirmative governmental act, and also would extend the time period for the Zoning Administrator to make a final decision that the extended time period potentially could give the Board an opportunity to hold a joint hearing with the Commission if it felt that the Zoning Ordinance was deficient and could make some corrections to it. Also, Mr. Chairman, I wanted to ask the Commission for a volunteer for the May 26th Technical Review Committee meeting. We have three plans scheduled for that meeting. We have Mount Hope Estates Preliminary Plan, that's in the Aquia District, we have Southgate Hills Construction Plan, that's in the Hartwood District, and then also the Walmart 610 is expanding their store and that's in the Garrisonville District. And that concludes my report.

Mr. Howard: Thank you Mr. Harvey. We'll work on that volunteer after the public hearing when we get to the chambers later.

NEW BUSINESS

9. Nonconforming Structures

Discussed after Public Hearings.

10. Fees for Minor Revisions to Planning and Zoning Applications

Discussed after Public Hearings.

7:30 P.M.

PUBLIC PRESENTATIONS

Mr. Howard: Okay, we will now move to public presentations. And if you wish to speak on anything other than what is part of the public hearing this evening, and the public hearing as an amendment to the Subdivision Ordinance, Comprehensive Plan Review with Miracle Valley, Conditional Use Permit for Vulcan Construction, Reclassification of Vulcan Construction and Comprehensive Plan Land Use Amendment for Vulcan Construction Materials. You basically can speak on anything other than those. I actually was going to close the Vulcan hearing quickly but I will wait because I will change my plan based on the number of people in the audience just so I don't irritate anyone. While I appreciate the Planning Commission carrying it over, I didn't want to be duplicative in what we do here. Now, anybody in the audience that is here from the public that wishes to make any public comment on anything other than those public hearing items that I mentioned, you may come forward. And I would ask that you state your name, your address, you'll have three minutes to address the Planning Commission. We do not respond to you although, after your public comments are over, we will try and get answers for things just as the public hearings that come up, if it's something that pertains or is germane to what the Planning Commission has purview of. So, again, you have three minutes; the green light tells you to start, the yellow light tells you you have about a minute left and the red light

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says you should conclude your comments. And, again, this would be for anything that is not on the public hearing docket this evening. So, anyone from the public who would like to address us, come on down. I see a few people who are thinking about it. Alright, so anyone on the left would like to address us? How about on the right, my right? Okay, hearing and seeing none, I will close the public comments.

PUBLIC HEARINGS

11. COM2900288; Comprehensive Plan Land Use Amendment - Vulcan Construction Materials, LP - A proposal to amend the Land Use Plan component of the Comprehensive Plan in accordance with Section 15.2-2229 of the Code of Virginia (1950), as amended. **(Public Hearing continued to May 5, 2010)**

Mr. Howard: We will reconvene the public hearing on the Comprehensive Plan Land Use Amendment for Vulcan Construction, the Reclassification for Vulcan Construction and the Conditional Use Permit for Vulcan Construction. We will not hear from staff at this time nor will we hear from the applicant. Both were able to present at the last meeting and discuss their comments. So, anyone wishing to address, either speak for the applicant or against what the applicant's trying to accomplish, you can do so by stepping forward. State your name and address and you have three minutes to address the Planning Commission. So, is there anyone on my left who would like to speak in favor of or against those three items in the public hearing may come forward? Seeing no one, I will go to my right and I don't see anyone making eye contact. I see someone yawning. So, I will now close the public hearing and we will bring the items back before the Planning Commission and staff, and I will open it up for questions of the Commission to either staff or the applicant. I have a few questions actually, so I don't know if the applicant would like to come forward. Mr. Leming, I guess some of my questions, and these can certainly go to you or your client, I had some concerns when I listened to some of the comments from the public hearing and read through some of the data. And I know that a Phase 1 study was going to be, I think, part of the process or you would agree to do that or proffer to do that, I'm not sure exactly which phrase, should we begin to move forward but the reason I bring that up is my biggest concern is there was a family cemetery, there were two other cemeteries mentioned and then there was a home that was potentially historic in nature. So, I was wondering how did the applicant and your client plan on working through that.

Mr. Leming: I would be happy to answer that Mr. Chairman. If you turn your attention to proffer number 11, it is entitled, and this would be part of your proposed resolution that came with your packages two weeks ago... I don't know, Mike, is that also in their package for this week? So it would be from your package from two weeks ago. Proffer 11 is entitled Identification of Cultural Resources and there are three aspects to that proffer. One is A, the architectural survey; that would require the applicant to conduct an architectural survey of the subject house on the property. This is an I-House; it has been added onto a number of times. I think that Mr. Jones could give you some fairly specific detail on those additions, if you are interested. The stucco, a little bit misleading in the staff report perhaps; I wasn't exactly sure what the intent Mr. Zuraf had in mind there was but the stucco is fairly recent. The stucco does not go back to the Civil War Era; that is something that was provided recently. The original I-House, which is still standing, does go back to that era. But there is proffered the architectural survey of the house. On the cemetery, we are aware, and the Martin Jones family is aware, of a single cemetery on the property. And proffer B here covers the survey that would be conducted of the known cemetery. We don't have any specific information based on the Phase I portion of the archaeological survey which has been done or information from DHR about other cemeteries. However, if there is information about other cemeteries and that is brought to our attention,

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then we would investigate those in the context of the archaeological survey which is proffered down in C. I would also point out that as part of the core review of this project, you have us two ways there. You have a proffer there saying we are going to do the archaeological survey, the Phase I and the Phase II if necessary. That would also be required in the context in all likelihood of any core permit that is obtained. So you have that requirement that would apply and that work would have to be done before anything is disturbed on the site.

Mr. Howard: Okay, thank you.

Mr. Leming: I don't know if you could hear what Mr. Jones indicated. The family cemetery is not actually on the Vulcan property; it is immediately next door. We are still doing the survey of the cemetery but that is not actually on the rezoned property. That is next door.

Mr. Howard: Okay, but there is a potential Native-American cemetery and perhaps a slave cemetery as well; is that right?

Mr. Leming: Well, we don't know about that.

Mr. Howard: But the Phase I will tell us.

Mr. Leming: Yes, the Phase I will. And anything that anyone wants to bring to our attention that should be covered in the context of the Phase I survey, we will absolutely do it. But we don't have any specific information about those things at this point.

Mr. Howard: Okay. And then the hydrology study also came up in the information. And I guess there was concern that staff could not get out there. Has the hydrology study been completed at this point?

Mr. Leming: You have the hydrology study, if we're talking about the same thing. This has to do with the permeability of the rock and whether or not rock can penetrate from the quarry area...

Mr. Howard: So that was completed at the time you were here two weeks ago.

Mr. Leming: Yes.

Mr. Howard: So the issue is was staff, and maybe Mr. Harvey you can answer that, was staff able to go out there and take a look?

Mr. Leming: I think you're talking about the stream perennality report. The report goes to groundwater and whether or not there can be any seepage or affect on adjacent wells, anything like that. And you have that full report as part of your package.

Mr. Howard: Right, and that's when you indicated that the type of rock the water could not seep through.

Mr. Leming: Right. And you have detailed information about that. Today we got an email from staff asking for a date that they could come out for purpose of the perennial stream on the property.

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Mr. Harvey: And Mr. Chairman, Amber Forestier can answer any questions you have regarding the study and the delay in getting out to the field. There are a number of circumstances that have affected the confirmation of the study.

Mr. Leming: I will also point out that we have our perennial stream expert with us tonight. He has worked with the County previously...

Mr. Howard: Why don't we hear from him so we can hear what his assessment is of the perennial stream. I guess the conflict was where did the stream... where was the location.

Mr. Leming: Okay. I think he can tell you something about how the study was conducted and he worked with the County before.

Mr. Brooks: Mr. Chairman, I'm John Brooks. I'm with Resource International. I'm a Senior Scientist. I have been doing perenniality studies now for thirteen-fourteen years. We use the North Carolina method, generally accepted throughout the east coast. I have completed hundreds of perenniality assessments throughout the Commonwealth; multiple in Stafford County. All have been approved either by the counties or by the CBLAT itself. From what I've looked at, this perennial study is on the lower end of the scale of being perennial or not. The distinction between the perennial portion of the stream and the intermittent portion of the stream is distinct. I don't think that there will be any changes when we go out to the field given the fact that we visited an adjacent property that Vulcan owns as well and I don't feel like there's going to be any changes once we visit them.

Mr. Leming: The location of the stream is on the... the perennial portion is on the northern portion of the property, all contained within the site. As you get further south on the property, that's where it turns into an intermittent or just a runoff area, correct?

Mr. Brooks: That's correct.

Mr. Howard: Okay, does anyone from the Commission have questions for their scientist?

Ms. Kirkman: No, but Mr. Chair, I would like to ask some questions of staff on this issue.

Mr. Howard: Sure, just give me one moment Ms. Kirkman.

Mr. Howard: Mr. Leming, there was also this plant, the Harperella plant specimen, that I guess is within the 200 foot buffer and what were the thoughts on that?

Mr. Leming: Well, we don't know of its existence there. It exists elsewhere in the same very general vicinity. How far away? Walter, you're the best one to talk about that, aren't you?

Mr. Beck: Walter Beck of Vulcan Materials. I'm an Environmental Engineer. Harperella has only been found in once place in the State and that's on Quantico, about a mile away from our facility.

Mr. Howard: So that's not actually on the subject site?

Mr. Beck: No Harperella has been found on our site. We actually did a study of the area to look for habitat and we did not even find habitat that would allow for its existence.

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Mr. Howard: Okay, then one more question. Thank you.

Ms. Kirkman: Excuse me, before he leaves, I do have a follow-up question for the Environmental Engineer regarding that. The specimens that were found on Quantico, are those upstream or downstream from the application site?

Mr. Leming: Down.

Ms. Kirkman: Downstream? Okay, thank you.

Mr. Howard: The asphalt plant... and I recognize also this is a bigger plan and I know there is a lot of dialogue about why now and so on and so forth and the property is available; I get all that. So, I guess my question is, if and when the asphalt plant actually moves, how much closer to the residents does it move? Do you know that? I mean, I know generally where it will move on the GDP that you've given us for the illustration. I'm not sure of the proximity to the homes.

Mr. Leming: Okay. If Dale were here I would let him talk about the actual measurements. We'll let Walter talk about those actual measurements too.

Mr. Howard: Thank you.

Mr. Beck: Again, Walter Beck with Vulcan. Can you just repeat the question to make sure I have it correct?

Mr. Howard: Absolutely. So, if and when the asphalt plant moves, Virginia Paving I guess, how much closer will that plant be to the homes? I know I can see it obviously on the GDP but the question was just proximity to the homes compared to where it is today to the future. Because right now it seems like it's in a great location.

Mr. Beck: Well, obviously it's moving; it's moving about 500 feet back to the north of the facility. So obviously it's going to be getting further away from some homes and it's going to be getting closer to other homes. The closest it will be to any one home I think will be 500 feet away from the actual residence.

Mr. Howard: What is the closest residence today to it?

Mr. Beck: To be honest with you, I don't recall that at this moment.

Mr. Howard: Okay.

Mr. Leming: According to your staff report, I'm reading from the memorandum to the Planning Commission on page 6, this is a subparagraph entitled Noise and Visual Impacts. What this states is "presently the asphalt plant is approximately 1,600 feet from the nearest residence. At the relocated site the separation is reduced to 800 feet." The nearest residences would be those located along the eastern side of Toluca Road that are immediately adjacent to the property that is being sold and all of those residents would currently be occupied or owned by the members of the Martin Jones family. Those are the homes that it would be closest to.

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Mr. Howard: Okay. Alright, I will bring it back to the Planning Commission for questions to the applicant. Ms. Kirkman?

Ms. Kirkman: Mr. Leming, you were in the audience for the discussion of about elimination of preliminary subdivision plans, so you are aware that some Planning Commissioners have concerns about approving projects decades before they will be actually built. And you explained that in this instance, that was necessary because they are going to purchase the property and they don't want to purchase the property if they can't get the rezoning. I note in the staff report that they also state that variances from the Board of Zoning Appeals will be required in order to implement the project. Has the applicant applied for those variances?

Mr. Leming: No. We would not do that until we have completed the zoning process. Then we would go to the Board of Zoning Appeals at some point later in time as we got closer to implementation.

Ms. Kirkman: And how much closer to implementation do you anticipate that being?

Mr. Leming: Well, the next step would be a site plan. The appearance before the Board of Zoning Appeals would occur in general proximity, close proximity, to the site plan review. That would be the time when staff would need to know that information to review the site plan.

Ms. Kirkman: Well, if you could just help clarify, you can't do the project without the variances in the same way that you cannot do the project without the rezoning. But you are willing to go forward with the purchase of the project without the variances but not without the rezoning?

Mr. Howard: Ms. Kirkman, is there a question that is germane to the items before us other than understanding a strategy of how they do business?

Ms. Kirkman: This actually has nothing to do with the business plan, Mr. Chair. It really has to do with this issue of approving projects decades in advance before they're going to be built. I am just trying to understand the timing...

Mr. Howard: I think you've asked that question and they've answered it. You can certainly ask it again but I would prefer that you ask a question rather than making a statement.

Ms. Kirkman: I did. I was just asking, you know, why is it that you are able to go forward without the variance but not without the rezoning?

Mr. Leming: I guess there are always a horse and a cart question on these applications. There are a number of additional approvals that we have to obtain, including some State approvals; a core permit, DCR. So, the question is, what is the starting point? And I think historically I think staff backs this position, the starting point is the zoning. Without the zoning you don't move forward with any of the others. That's traditionally how it's been done, that's the biggest piece that has to be accomplished in order to move forward with anything. So there are other approvals necessary. There may be some other risks. I'm not going to get into the contract between Vulcan and the land owners here as to who bears those risks, but there are several other additional approvals. This has always been the starting point; starting point here.

Ms. Kirkman: Okay. Thank you.

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Mr. Howard: Thank you. Any other Commissioners have questions for either staff or the applicant at this time?

Ms. Kirkman: Yes, Mr. Chair, I had questions for staff regarding the perennality issue?

Mr. Howard: Okay, let's give someone else a chance just in case someone else has a question. See no other person signal, Ms. Kirkman, please; ask staff about the perennial question.

Ms. Kirkman: Ms. Forestier, thank you. The question I had was really having to do both with what's the difference between the staff opinion and the applicant position on where the intermittent break in the stream is.

Mrs. Forestier: When we went out on the site, because of the snow pack that was still melting, there was water in the creeks of such an amount that it was very difficult to verify all the scores on our sheets. One of the requirements is, for hydrology, water in the channel... there was water in the channel and there were forty-eight hours or more since rain, but there was so much snow melt that we couldn't barely see the bottom, let alone the head cut that they were discussing. We basically go out and verify that what their score is, is what we would score it and we didn't feel that we could do that that day.

Ms. Kirkman: Okay. And under the North Carolina method, there are like... you know, if it's super dry here's the scores that work. Is there something similar around if it's very wet?

Mrs. Forestier: Not really.

Ms. Kirkman: Okay.

Mrs. Forestier: Usually the best time to score a channel is mid-summer, in the middle of the growing season, to see if there is groundwater flow. Other times of the year... the wetter it is, the more you have storm flow in it. It skews your perception of the stream channel basically. Most times we won't accept something if it was done within forty-eight hours of a heavy rainfall.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Thank you Ms. Kirkman. Anybody else with questions? I really have a point of clarification. Mr. Harvey, the applicant would actually have to demonstrate the perennial stream flow when they came forward again, if they were to come forward again, if this is approved with their site plan, is that correct? What would be the requirement if they were to move forward and advance this and had to go for site plan approval?

Mr. Harvey: Mr. Chairman, the determination would have to be made at site plan stage because we need to know where the protected areas are for the Chesapeake Bay Act before we authorize development to occur.

Mr. Howard: So, the applicant and staff would actually have to coordinate and get together and ensure that a visit that was just described actually occurs prior to the site plan actually being approved, or being submitted for approval.

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Mr. Harvey: Yes we would. The reason why we have a study at this point in time is because that was potentially significantly impacted by the intended use. That was one of the reasons why we wanted to have that information more in the up front stages of the review.

Mr. Howard: Sure, I understand. I just wanted clarification for everyone else to understand that that issue doesn't conclude tonight; there's more to come to understand that that is a perennial stream or not, is that correct?

Mr. Harvey: Correct.

Mr. Rhodes: Mr. Chairman, there was a question that was posed via email by a resident and it's not exactly germane to this particular application, so if inappropriate, certainly we can defer it and try...

Mr. Howard: I will call you out of order in a heartbeat.

Mr. Rhodes: Very good, okay. On a previous application by Vulcan that changed... excuse me, by Virginia Paving that changed the number of nights they could operate...

Mr. Howard: One hundred twenty nights.

Mr. Rhodes: Thank you. There is a person, a resident neighboring this property that raised the question that they did not get notice at that time of that hearing and they were curious as to that night. And I forwarded that to Jeff and I was wondering if you had an opportunity to look into that just so that that indirect question, not necessarily directly related, so that answer could get out there because they said they wouldn't be able to be here but were watching.

Mr. Harvey: The property where the asphalt plant currently is, is pretty much surrounded by Vulcan Materials, so the notice requirements are that we send notice to the abutting owners. At the previous hearing they were not abutting owners. For this hearing, they are across the street from the property that is partially being rezoned.

Mr. Rhodes: So, in this instance, because it's a different property line, what that abuts is their property. Where, in the last instance it wasn't abutting their property.

Mr. Harvey: Correct.

Mr. Rhodes: Okay, thank you. I think they were going to be watching so I wanted to (inaudible).

Mr. Howard: No, that was a great question. I think it's germane only because Vulcan is part of the CUP that they are going for here, for the approvals. Any other questions from the Commission? Okay, hearing none, I bring it back to the Commission for discussion.

Ms. Kirkman: Mr. Chair, I believe we need a motion to initiate discussion.

Mr. Howard: Well, unless there are any other conduits that you want to share or talk about and then we can have a motion. Okay. I am the person who has the... what we normally do is the Commissioner for the jurisdiction or, in this case, the geography of the magistrate area, which would be me in Rock Hill, would make the motion. And I will do so. Mrs. Roberts, is that a conflict if I am acting as the Chair?

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Mrs. Roberts: You pass over your Chair to the Vice-Chair to make the motion.

Mr. Howard: Right. So, I'll pass over the Chair to the Vice-Chair, Mr. Fields.

Mr. Fields: At this time, we have three times to vote on.

Mr. Howard: Want the gavel Mr. Fields?

Mr. Fields: Oh, absolutely. At this time, we have three items before us, each of which will need a motion to be voted on separately. So, the first one is the Comprehensive Plan Land Use Amendment and so the Chair will entertain a motion.

Mr. Howard: I make a motion for the Commission to approve COM2900188, Comprehensive Plan Land Use Amendment, Vulcan Construction Materials.

Mr. Mitchell: I second the motion.

Mr. Fields: Moved by Mr. Howard, second by Mr. Mitchell. Is there any discussion on the motion?

Ms. Kirkman: Mr. Acting-Chair? I am going to oppose the...

Mr. Howard: Actually I think I get the first chance to discuss the motion.

Mr. Fields: Making the motion, absolutely you do.

Ms. Kirkman: Sure.

Mr. Howard: Is that the procedure?

Mr. Fields: Have at it.

Mr. Howard: Okay. After listening to the meeting two weeks ago or whenever it was and understanding the applicant and what they are desiring to do, and recognizing that their business, their operation of the business and the type of business they operate and the land that is adjacent to the current quarry, it seems suitable to continue that operation there. It makes sense from an economics perspective obviously for the applicant. I did hear all the discussion about how it helps save costs and that type of thing and I think that is a good debate to have. I'm not sure that I want to have it. That would not have any bearing for me because I think we have plenty of nurseries and other areas and other retailers where we can purchase stone and mulch and other types of product or similar product that's produced. I think it's, from my perspective as a Rock Hill supervisor, I think it's great to have those jobs in Rock Hill. I think it's terrific that they want to stay. It certainly puts people to work. I think it's good for the County. I think in the long term that we have the potential to get two very large parcels back to the County that could be used either for park land at some point or certainly for reservoirs and I really, really think that that's a very forward, positive thinking and will help people twenty-five years from now with the Hampton pit and then seventy-five years down the road. Hopefully our children or some of our grandchildren will still live here and be able to benefit from some of that. So, I will be moving to approve all three for that reason. I think the applicants have done their due diligence; I think they've done a good job of presenting all the facts openly, with integrity, and understanding that there are certainly some risks as well. They've been a good employer, they've

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been a good corporate citizen in the County, they treated their neighbors very well, and I would expect that that will continue. Thank you Mr. Chair.

Mr. Fields: Alright. Any other discussion? Ms. Kirkman?

Ms. Kirkman: Mr. Acting-Chair, I am going to oppose the motion. The motion that is before us is to amend the Comprehensive Plan. The Comprehensive Plan is supposed to be the vision for what the County is going to look like. In that context, I think it is inappropriate to amend the Comprehensive Plan to accommodate one particular development. I think that is poor planning and for that reason I am going to oppose the motion.

Mr. Fields: Alright, is there any other discussion?

Mrs. Hazard: Mr. Acting-Chair? I would just like to add that the draft Comprehensive Plan, as we have looked at it, I wanted to note that the area in its proximity to Quantico and the uses that Quantico would prefer in those areas, I will be supporting it for that reason that I do not believe that, in the future, I would want residential there based on some of the concerns that Quantico has raised, as well as some of the citizens spoke that they actually have more issues with the bombings and the activities going on at Quantico. So, for that reason, I am going to support the motion because of the land use going on there now.

Mr. Fields: Alright, any other discussion? Mr. Rhodes.

Mr. Rhodes: I will submit up front I will be supporting the item. I would highlight... actually I am somewhat jumping up a few but they are all three tied and we are going to roll down, so I am going to get my comments out of the way right now. The twenty year issue, or the twenty-five year item of acting on something is a little bit uncomfortable. I will highlight that up front. Certainly the Conditional Use Permit aspect of it because you are setting the conditions of use for something that is so far in advance, so I've spent, really quite frankly, the last couple of weeks weighing on that dynamic and aspect of it. But given the proximity to the ongoing current operation, I have weighed in to the point of being comfortable voting in support of this, notwithstanding any new information that might have been presented. The context I've gotten, email or otherwise and from the public hearing portion from neighbors, they've all ranged. There's been nobody vehemently opposed, they've certainly had some that have indicated some belief that they've heard some noise or other things and concerns, others would say that they're hearing nothing, good community partners. So, all in all, it has weighed me that in the overall best interest it would be best to support this. Thank you Mr. Chairman.

Mr. Fields: Thank you Mr. Rhodes. Is there any other discussion? Alright, before we vote, I will also be voting no; reasons similar to Ms. Kirkman. I think ultimately most likely this will be what occurs on that property, I don't think anybody probably doubts that. I feel at this time that I have not yet heard any compelling public interest reason to support the rezoning, CUP and Comprehensive Plan Amendment at this time. At the time when it becomes closer to operational and a necessity for the mining and extraction of those materials for the benefit of all in terms of construction, then that seems to me to be the appropriate time when the citizens have their opportunity to decide. I think the County is fraught with issues and problems that are the result of probably good-intentioned efforts twenty-five and thirty years ago to look into the future. The world is a dynamic place. I'm not comfortable looking that far into the future, though I appreciate the work that they've done and I think they've made a good presentation. Any other comments? Alright, let's call for the vote. All those in favor of the Comprehensive Plan Land Use Amendment signify by saying aye.

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Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Fields: Opposed?

Ms. Kirkman: Nay.

Mr. Fields: No. The motion passes 5 to 2.

12. RC2900289; Reclassification - Vulcan Construction Materials, LP - A proposed reclassification from A-1, Agricultural to M-2, Heavy Industrial Zoning District to allow heavy industrial and heavy manufacturing uses not otherwise listed, with the issuance of a separate Conditional Use Permit, specifically stone extraction and asphalt manufacturing, on Assessor's Parcel 19-64 (portion) consisting of 99.64 acres, located on the west side of Vulcan Quarry Road, approximately 1,900 feet north of Garrisonville Road within the Rock Hill Election District. **(Time Limit: July 20, 2010) (Public Hearing continued to May 5, 2010)**

Mr. Howard: Mr. Chair, I make a motion to recommend approval for RC 2900289, Reclassification of Vulcan Construction Materials.

Mr. Mitchell: Second.

Mr. Fields: Moved by Mr. Howard, second by Mr. Mitchell. Is there any discussion on the reclassification?

Mr. Howard: Mr. Acting-Chair, as some others have called you.

Mr. Fields: You can call me Vice-Chair.

Mr. Howard: Well, you're a good actor. I do want to make a comment. I actually think Ms. Kirkman made a very positive comment on the Comprehensive Plan and the amendments that this Planning Commission is forced to make on many, many different applications that come before us. And that is, I just want to put that out there, that is something that we are absolutely considering and, again, the next work session we can go through some of that, but absolutely considering as we move forward because I couldn't agree more. If you're changing your Comp Plan every two weeks, there's something wrong with the Comprehensive Plan. So I agree with that comment.

Mr. Fields: Alright.

Mr. Hirons: Mr. Chairman, if I could...

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Mr. Fields: And on an act of graciousness, I will allow that comment on the previous motion on this second motion, if that's okay. I appreciate your comments. Yes, Mr. Hirons.

Mr. Hirons: I'm not going to make my comment on the previous motion. What I was going to say was I believe the draft of the revision of the Comp Plan, as it currently exists and possibly as we went through the edits, there is something along the text that mentions this type of activity; to encourage it to be done adjacent to existing facilities. So, I would actually almost argue that it is in compliance with the Comp Plan, especially considering we're looking at twenty years out. And frankly, it helps us right now, as we are going through the revision of the Comp Plan, the review of the Comp Plan, we are going to fix it and it will be in compliance with the Comp Plan.

Mr. Fields: Thank you. Any other comments? Ms. Kirkman.

Ms. Kirkman: Yes, Mr. Chair, I am going to oppose the motion to approve the rezoning. I just believe that there are an infinite number of problems created when a project is approved decades in advance of when that project is going to be built. It is impossible for either this Planning Commission or the Board of Supervisors to anticipate either the conditions or what future citizens or Boards will want two decades from now. And both the applicant and staff have acknowledged that this project is not going to be built in the near future. It is very different than a residential development project that comes before us and is going to be built in the next three years. This thing isn't going to be built for decades. And that is the reason why I am opposing the rezoning.

Mr. Fields: Thank you Ms. Kirkman. Anybody else?

Mr. Mitchell: We all have to look at these issues and make a decision based on our ability, our knowledge and our belief in what will happen. One of the things I'm concerned about is water. Good old-fashioned water. Last month's National Geographic... the main word on the front page was "water". Inside was a map of water or not water areas throughout the world. Water is going to be a tremendous factor as more people move into any given county; it doesn't matter if it's Virginia, Texas, Louisiana, Florida, Mississippi... it doesn't matter. Water is going to be a major issue. At some point, when the projects are finished, if they're turned over to the County for parks and rec, if they're turned over to the County for water reservation, I think that will be a tremendous effect because even though we have Smith Lake and Abel Lake and the new one behind Geico, Rocky Pen Run, having the ability to have water in a reservoir situation will make the difference in us being a successful county and us being a not successful county. Thank you Mr. Chairman.

Mr. Fields: Thank you Mr. Mitchell. And I would like to point out, for the folks at home, that the lighthouse on Mr. Mitchell's tie shows his dedication to the water issue. He's a man who walks his talk, absolutely. Anybody else have a dialogue? Alright. Those in favor of the reclassification please signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Mitchell: Aye.

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Mr. Hirons: Aye.

Mr. Fields: All those opposed?

Ms. Kirkman: Nay.

Mr. Fields: No. Alright, number 13, Conditional Use Permit.

13. CUP2900290; Conditional Use Permit - Vulcan Construction Materials, LP - A request for a Conditional Use Permit for heavy industrial and heavy manufacturing uses not otherwise listed, specifically stone extraction and asphalt manufacturing, in an M-2, Heavy Industrial Zoning District on Assessor's Parcels 19-64 (portion) and 19-67T consisting of 115.74 acres, located on the west side of Vulcan Quarry Road, approximately 1,900 feet north of Garrisonville Road within the Rock Hill Election District. The request is to expand an existing stone extraction quarry and relocate an existing asphalt manufacturing plant. **(Time Limit: July 20, 2010)**
(Public Hearing continued to May 5, 2010)

Mr. Howard: Mr. Chair, I make a motion to recommend passage of CUP2900290, Conditional Use Permit for Vulcan Construction Materials.

Mr. Mitchell: I second his motion.

Mr. Fields: Moved by Mr. Howard, second by Mr. Mitchell. Is there any discussion on the CUP? Alright, I think we've had...

Ms. Kirkman: Excuse me, I just wanted to give Mr. Howard the opportunity to speak first.

Mr. Howard: I think actually Mr. Fields has to ask me that.

Mr. Fields: Mr. Howard, would you like to comment on the CUP?

Mr. Howard: Not at this time Mr. Fields.

Mr. Fields: Okay.

Ms. Kirkman: Yes, Mr. Fields, I would... again, I want to recognize that everything I've heard is that Vulcan is a good neighbor and this is not about Vulcan or Virginia Paving. The problem really here is one of timing and the fact that this will not be built out for decades. One of the problems with the CUP is unfortunately the conditions that could be put in place now, some future Board or some legal expert may decide that those conditions aren't enforceable. We've had that happen in the Griffis-Widewater District that I represent where a condition was placed on a property that the conditional use was subject to it not being transferred to the... it wouldn't transfer when the property was sold to other owners. And since that time the County is determined that that condition is not enforceable. And that is the problem with Conditional Use Permits is that it's really impossible to determine both what conditions are appropriate; for instance, mining extraction technologies may change dramatically in the next twenty years which would lead to different kinds of conditions being imposed. Or the legal and case law may change over the years. And for that reason is just impossible to set conditions now for something that is going to happen two decades from now. And for that reason I will be opposing the motion.

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Mr. Fields: Alright, is there any other discussion on the motion? Alright, hearing none, all those in favor of the Conditional Use Permit signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Fields: Opposed?

Ms. Kirkman: Nay.

Mr. Fields: Nay. Alright, the motion passes 5 to 2. Alright, with that Mr. Howard, returning the gavel.

Mr. Howard: Thank you. You did a wonderful job Mr. Fields.

Mr. Fields: Thank you Mr. Howard; I try.

14. COM1000010; Comprehensive Plan Compliance Review - Miracle Valley Lane Sanitary Sewer Extension - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for the extension of gravity sanitary sewer outside of the Urban Services Area a length of 505 linear feet to serve two residences, located on the north side of Deacon Road and east side of Grafton Village Elementary School on Assessor's Parcels 54-132, 133A and 133B within the Falmouth Election District. (**Time Limit: July 4, 2010**)

Mr. Howard: We will now move into the public hearing for the Comprehensive Plan Compliance Review, which is Miracle Valley Lane Sanitary Sewer Extension. And we will hear a short presentation from staff, Mr. Harvey?

Mr. Harvey: Yes, Mr. Chairman. Mr. Zuraf will be making the presentation.

Mr. Howard: Good evening Mr. Zuraf.

Mr. Zuraf: Good evening Mr. Chairman, members of the Planning Commission. Mike Zuraf, Principal Planner, Planning and Zoning Department. Can I have the computer please? Item 14 is the Comp Plan Compliance Review for Miracle Valley Lane Sanitary Sewer Extension. The applicant is the County Utilities Department. This affects three parcels, Assessor's Parcels 54-132, 133A and 133B. The request is for the determination of request for compliance with the Comprehensive Plan for the extension of sewer service outside of the Urban Service Area as designated on the County's Land Use Plan. It would be across parcel 132 and it would serve parcels 133A and 133B. On these sites, on 132 is an education facility and on the other two parcels are residential uses. Looking at the location of the site, it's on the north side of Deacon Road; it's highlighted in red. The two residential properties are highlighted in red, on the north side of Deacon Road just to the west of the intersection with Brooke

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Road. The education facility mentioned is in this location. It's Grafton Village Elementary School in this spot and the zoning in this area is A-2, Rural Residential. To the south and the opposite side of Deacon Road is R-1, Suburban Residential zoning. Looking at the Land Use Plan designation, the subject properties that would benefit from this proposal are in areas designated as Rural Residential on the Land Use Plan. I mentioned this is outside the Urban Service Area. The Urban Service Area boundary is along this location just to the south of Deacon Road behind the properties up front on Deacon Road. And below this area, inside the Urban Service Area, the Land Use Plan designation is Suburban Residential and the school site is designated institutional. Superimposing the existing gravity sewer lines onto the Land Use in this area, you'll see that there are a number of properties that are already served by public sewer in this area that are outside of the designated Urban Service Area and those sewer lines are designated with the brighter green lines.

Mr. Howard: Can you go back to that? I'm sorry.

Mr. Zuraf: Sure.

Mr. Fields: Excuse me Mr. Chair. Does that green line extend across Caraway Drive to Boscobel Estates or is that a separate... is Boscobel a separate extension from a different line?

Mr. Zuraf: Yes, it heads from another direction. The ridge line actually just basically follows this location so these sites are near the top of the drainage.

Mr. Fields: Thank you

Mr. Howard: Mr. Zuraf, so the green line is the sewer extension line, right?

Mr. Zuraf: Well, I haven't gotten to the extension yet. It is existing gravity sewer lines, yes.

Mr. Howard: So those homes, that one subdivision to the left, I don't know the name, off of Deacon Road and Boston Court, they're all on sewer.

Mr. Zuraf: Yes. And this is a relatively new subdivision, Deacon Hill Estates, I believe.

Mr. Howard: How did they get on sewer if they...

Mr. Zuraf: I believe they should have received the Comp Plan Compliance Review as well. I would have to go back and check that. Looking at the aerial photo of the site, zooming in a little closer on the subject properties, here again is the school location and you can see the location of the structures on the site and the properties around. The subject properties generally have residential homes on them. There's a residential home here; there is actually a small church off of Miracle Valley Lane, Miracle Valley Church, off of that site. This is a photograph of 525 Deacon Road. It's a one-story house constructed in, I believe, 1976. This is the other property, 531 Deacon Road; the house built in 1940. And these two houses are both on public water; there's a public water line that runs along Deacon Road. And then this 525 Deacon Road has a private septic drainfield and then this other, 531 Deacon Road, their property is on subsidized pump and haul. Their drainfield has failed and they are the specific property that has applied to the Utilities Department for this request. The specific proposal would be to extend an eight inch gravity sewer line across the Grafton Village Elementary School site to serve these two properties. Again, the Utilities Department is the applicant on behalf of the owner who has applied to the Utilities Department. It's a request through what's known as the Neighborhood

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Water and Sewer Extension Policy which this allows the Director of Utilities to approve certain projects which meet criteria and then the County would finance that project. This is the specific proposal that was submitted with the application. Here is the school site, the existing sewer line I'm tracing here and the proposed sewer line would connect off of this existing manhole and then run across the school property, run along the back of 133A and then up along Miracle Valley Lane, which is in this location, initially to hook into 531 Deacon Road. According to the Utilities Department, the owner at 525, this property, they have no desire to hook in at this time. Their drainfield is functioning.

Mr. Howard: Mr. Zuraf, are there two buildings on 133B?

Mr. Zuraf: I believe there are several outbuildings; it's an older area and there may... I know this is the church. I'm not certain if any of these buildings are just outbuildings or actual...

Mr. Howard: No, on 133B, on the aerial it shows the same outline but there appears to be I would say two residential units with a pool behind one of them. And I don't see that on this diagram.

Mr. Zuraf: This actually is a large garage.

Mr. Howard: That's a garage?

Mr. Zuraf: Yes.

Mr. Howard: But that's a pool?

Mr. Zuraf: You see the garage and then the pool back behind it.

Mr. Howard: Okay.

Mr. Fields: And that's a shed behind the pool?

Mr. Zuraf: Yes.

Mr. Howard: So, what's before us really is only lot 133B.

Mr. Zuraf: Well, actually it would be approval for these two properties because the sewer line would be running through parcel 133A; A would have the ability to hook on should this be considered consistent with the Comp Plan.

Mr. Howard: Okay.

Mr. Zuraf: So, as I noted, that one property, 133B, is on subsidized pump and haul through the Utilities Department. The structure was built in 1940. The Utilities Department noted that a new conventional drainfield would not be possible on this site do to poor soils and also the lot size is going to dictate that as well. It's only one acre in size and given the structures on the property and the remaining open space, there is really no space on the site. So, the options available to this property owner...

Ms. Kirkman: You said conventional drainfield is not appropriate. What assessment for alternative?

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Mr. Zuraf: I don't believe an assessment was made for whether or not an alternative drainfield would be viable or not.

Ms. Kirkman: Okay.

Mr. Zuraf: And the options available to the property owner would be to either install a gravity sewer line or do the continuation of the pump and haul. And again this would allow the two properties to connect. In evaluating this proposal, within the Land Use Plan there are growth management policies, growth management provision 5 in the Land Use Plan that addresses the extension and location of sewer lines. And there are some specific provisions for the extension of sewer lines. It would allow them outside of the Urban Service Area where there has been a documented risk to public health and where the application of the current pump and haul policy would be financially excessive to the County Utility rate payers. Staff believes that the proposal is inconsistent with the first condition due to the fact that they are on subsidized pump and haul, so that basically voids the potential for backup and overflow of the septic tank and any health risks that might be caused. But the proposal is consistent with the second condition if the pump and haul subsidy was to extend beyond thirteen years. Staff provided in the report kind of a cost analysis. The Utilities Department noted that this project would cost \$52,000 and we know that from prior cases, that the average annual subsidy per customer that gets subsidies is approximately \$4,000. So, you do the math and then basically a subsidized property for thirteen years would equal that \$52,000 figure. So, if a subsidy lasted for more than thirteen years, that would exceed the construction costs of this sewer line. There is the potential though for a future extension of the sewer line beyond these two properties, just to note that. Again, the sewer line would end in this location. Staff has highlighted other properties that are in the area that would still be within the drainage area. As I noted, this is a drainage divide right in this location where the Urban Service Area is and then there is a drainage divide in this location. There are approximately eleven properties that may be able to hook into that sewer line. This was a rough assessment and there was no engineering done to see if that would fully work and serve all those people. Staff does note that the Urban Service Area begins to the south behind the lots on Deacon Road, so there wouldn't be any further extension to the south. And then properties to the north have connections through the other lines that were already highlighted. Staff does recommend the Planning Commission find the request to be in compliance with the Comp Plan. It is consistent with the growth management policies in the Comp Plan regarding the cost being excessive to rate payers or potentially excessive to rate payers. And then also it does serve existing residences; this line would not be going to properties that could be further subdivided under the current zoning. And it would serve no more than two residences at this time. One of the negative points we did note was that there is no documented risk to public health which is one of the provisions, but that is taken care of with the pump and haul that is occurring. And I will take any questions at this time.

Mr. Howard: Thank you Mr. Zuraf. We'll bring it back to the Planning Commission.

Mr. Fields: Mr. Howard? A couple questions. The adjacent properties that could potentially connect, as I looked at the map and the aerial, those all are also already subdivided, already with residences on them?

Mr. Zuraf: There might be one or two that do not have residences, but the majority of those do.

Mr. Fields: So there could be a couple that could be built on that aren't currently built on?

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Mr. Zuraf: If we go back to the aerial, I might be able to identify that a little better. Can we go back to the computer?

Mr. Harvey: Mr. Fields and Mr. Chairman, if the line was to be further extended, that would also require another Comp Plan Compliance Review.

Mr. Fields: What is the cost to do this? This is under the Neighborhood Policy?

Mr. Zuraf: Yes, it was \$52,000.

Mr. Fields: Back to Ms. Kirkman's question, I'm a little confused because I know the last couple years I was on the Board we were revising the pump and haul policy. One of the things I thought very adamant about changing and making clear was the applicability, the constant reassessment in light of changing onsite technology. Because it came to light in a dialogue about the pump and haul policy, we were flabbergasted to realize that some people were on pump and haul because they couldn't get a conventional drainfield. But all this time they were on pump and haul, there had never been any attempt to revise or look at whether it was still unusable for an onsite system given the newest state-of-the-art technology. That's a real compelling... to me, well, I'm not getting ahead of myself, I mean, was that not part of the process?

Mr. Zuraf: I may defer that to Dale Allen to come and explain what the whole process was leading up to this.

Mr. Fields: And one last question, and Dale may answer this as well, if those other properties were to receive it, assuming Comprehensive Plan Compliance, would they also have eligibility under the neighborhood projects plan?

Mr. Zuraf: Can you repeat that?

Mr. Fields: The properties that were identified as being potentially possible to connect if this connection were made, would they also be eligible under the neighborhood water and sewer plan to have that cost absorbed by the County?

Mr. Zuraf: I would have to have Dale come up.

Mr. Fields: Okay, sounds good.

Mr. Howard: Are there any other questions of staff?

Mr. Hirons: Mike, if you could go to the...

Mr. Fields: I'm assuming we're going to get Mr. Allen to answer those questions after we do Mr. Zuraf's?

Mr. Howard: We will, absolutely, before the public comments.

Mr. Fields: Thank you.

Mr. Hirons: The slide that has the existing sewer lines currently.

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Mr. Zuraf: Computer please.

Mr. Hirons: The one that does go horizontal across, well, it looks like it goes across Brooke Road but, as Mr. Fields asked, it stops there. You had quickly mentioned there the lots to the north are served. Are all the lots that are listed here served by that line?

Mr. Zuraf: It's either this line or this line that serve these, and then this line would serve these.

Mr. Hirons: Going all the way up to the boundary of the school?

Mr. Zuraf: I don't know about that. I don't know how far, if this line serves... I don't know the extent of which lots these serve? Regardless of this proposal, this has nothing to do with whether these properties would get access to sewer.

Mr. Hirons: Second question. The lot that it's going to cut across or potentially cut across, you said the lot owner there isn't interested right now in hooking up to the line?

Mr. Zuraf: Correct.

Mr. Hirons: Is there any particular reason why he or she is not?

Mr. Zuraf: My guess is there is a hook-up fee to hook onto the sewer; there is a cost involved. It's not just something they can...

Mr. Hirons: And what is that fee?

Mr. Zuraf: I would have to defer to Dale Allen for that.

Mr. Hirons: One of the issues was that the conventional drainfield couldn't go in there was the soils. I'm assuming that's not referring only to the soils on that particular parcel. I'm assuming the soils there in that general area are pretty much the same, lot to lot.

Mr. Zuraf: That's my understanding.

Mr. Hirons: As additional drainfields fail, most likely there wouldn't be any of those parcels that would be able to put in a conventional drainfield.

Mr. Zuraf: That would likely be the case because of the size of the lots in this location being that they are all generally one acre in size in this area.

Mr. Hirons: Thank you.

Mr. Howard: Great. Any other questions of Mr. Zuraf? And then we'll ask Mr. Allen to address those questions.

Ms. Kirkman: So, Mr. Zuraf, is it the general opinion of staff that one acre lots are not suitable for septic?

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Mr. Zuraf: I'm not stating it would not be able to happen; it's much more difficult to happen because of the existing drainfield, that area would no longer be usable and you have the other areas of where the house is. And then you have other impervious areas.

Ms. Kirkman: Okay. I do have additional questions but I imagine Mr. Allen is the more appropriate person for this.

Mr. Howard: Excellent. Mr. Allen, would you mind stepping forward and educating us?

Mr. Allen: Mr. Chairman, members of the Commission, Dale Allen, Assistant Director for Engineering, Department of Utilities. I would be happy to try to address your questions.

Mr. Howard: Great. So, Mr. Fields, I think you had the first question for Mr. Allen.

Mr. Fields: The two questions I had was one, why was there not a study done for the suitability of alternative drainfields and, two, if those other properties shown as potentially able to connect to this line were to connect, would they be eligible for the neighborhood project?

Mr. Allen: The first question is, under the County's Water and Sewer Extension Program, it's not a requirement to demonstrate that an advanced system would not be suitable for this particular project. They only have to meet a 400 foot per applicant, 1,200 foot maximum per year requirement for a short extension program, and there are a number of criteria for a neighborhood program that would exceed 1,200 linear feet per year. But this project clearly fell within the short extension program category, so we didn't require that an AOSE or a soil scientist evaluate the site for an advanced system.

Mr. Fields: Okay.

Mr. Allen: Okay, the second question related to the other. The other lots in the area could either qualify under a neighborhood program or a short extension program if the extension were less than 1,200 feet per year. So, there's a good possibility that they can come in and apply and we could go through the same procedure with those. We have not gotten any applications to date from other people in the neighborhood however.

Mr. Fields: Okay, thank you.

Mr. Howard: Thank you. Mr. Hirons, did you have any questions for Mr. Allen?

Mr. Hirons: The only one was the one I asked Mr. Zuraf the cost of the hook-up.

Mr. Allen: The applicants for an extension program pay availability and connection charges, so the current sewer availability charge is \$3,500; the current connection charge is \$2,100. So that's what they would pay.

Mr. Hirons: And that's paid by the lot owner?

Mr. Allen: By the applicant, yes.

Mr. Howard: Thank you. Ms. Kirkman, you had some additional questions for Mr. Allen?

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Ms. Kirkman: Yes. This is the second one of these that have come to us in less than a year, so I do want to back up and get some education, first starting with the pump and haul program. I thought there wasn't subsidized pump and haul anymore?

Mr. Allen: No, the Board has not changed the subsidized pump and haul program.

Ms. Kirkman: It has not?

Mr. Allen: It has not.

Ms. Kirkman: And how does one get on subsidized pump and haul?

Mr. Allen: It's at the discretion of the Board of Supervisors. There are a number of criteria that are in the policy that the Board has adopted some years ago. But basically the applicant has to show that they have an existing system that's failed and there's no feasible means to repair it. At that point, we would prepare a Board package presenting the facts and present it to the Board for a decision.

Ms. Kirkman: So, under the pump and haul system, I think this gets back to, again, what Mr. Fields was asking about there's never any re-eval... how long has this property been on pump and haul?

Mr. Allen: For about a year. It's temporary pump and haul is what this property is on, pending resolution of the sewer extension request.

Ms. Kirkman: So, when it was put on temporary pump and haul a year ago, I think the words you said, they had to show there was no feasible way to repair it. Wouldn't that include looking at whether or not an alternative system could be put on the property?

Mr. Allen: If this were a pump and haul request instead of a short extension request, we would have asked for a full evaluation for an advanced system, yes.

Ms. Kirkman: Right, and that's what I'm trying to get at. This is less than a year ago so was that asked for a year ago?

Mr. Allen: This is not a pump and haul request. This is a short extension request.

Ms. Kirkman: I understand that, but you said it came on pump and haul a year ago. When it came for pump and haul a year ago...

Mr. Howard: Ms. Kirkman, if I may interrupt. I think what he indicated was it went on temporary pump and haul and at that time, the application, I don't know if you indicated it was in tandem but it sounded like it, or on concert, the application to extend the sewer line also either started or the process began.

Mr. Allen: The Director of Utilities...

Mr. Fields: It's not really pump and haul. This is a temporary... Utilities has the authority to put people on temporary pump and haul pending the resolution of a Utilities issue. This doesn't go before the Board or fall under that policy.

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Ms. Kirkman: So, this did not go before the Board for subsidized pump and haul?

Mr. Allen: No it did not.

Mr. Howard: Not yet. It's going to be pending the outcome of this.

Ms. Kirkman: Okay. So, when people request temporary pump and haul from the Utilities Department, the Utilities Department does not do any assessment of whether or not alternative systems would be appropriate?

Mr. Allen: If the applicant is qualified under the short extension program, then the Director of Utilities is authorized to put them on temporary pump and haul pending a final decision on the extension program. If this were a neighborhood program or large extension program, we would have to go before the Board.

Ms. Kirkman: Okay. And, so, let's move onto the... this is the short extension program. And then there's the neighborhood program?

Mr. Allen: It's all under one program called the Water and Sewer Extension Program, and this is a category of projects that has different criteria, the neighborhood projects and large projects.

Ms. Kirkman: And how do homeowners find out that they can get the County to pay for this extension, if they're having problems with their septic system?

Mr. Allen: You mean, is the question how do we publicize the details of the program?

Ms. Kirkman: This is the second one that's come before us and it's not clear to me like how people find out about the availability of this program.

Mr. Allen: I think for the most part they get the information through the Health Department. If you have a drainfield failure, you would call up the Health Department for advice. They would come out and evaluate the situation and they generally advise people that there is such a thing as a pump and haul program and there is such a thing as a Water and Sewer Extension Program.

Ms. Kirkman: Okay.

Mr. Allen: We also get people that just call in, we get people that walk in and ask general questions; so it's a variety of methods.

Ms. Kirkman: Okay. But on both the temporary and under the short extension program, there's no criteria that requires evaluating for alternative drainfields?

Mr. Allen: That's correct.

Ms. Kirkman: And the \$52,000; now that comes out of the Utility Fund?

Mr. Allen: It does.

Ms. Kirkman: And so that does not get general funds.

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Mr. Allen: No. There are no general funds involved in this.

Ms. Kirkman: So this is just from the Utility fees?

Mr. Allen: That's correct.

Ms. Kirkman: And those are done by watershed or sewer-shed?

Mr. Allen: It's currently budgeted under the availability fees which are done on a countywide basis.

Ms. Kirkman: So, essentially for these types of projects, all of the public water and sewer utilizers in the County subsidize these types of projects, through the fees they pay.

Mr. Allen: Yes. A certain proportion of the availability fees goes into the fund to fund short extension... extension projects in general.

Ms. Kirkman: Okay. And is there any attempt made to recover... there's no attempt made to recover those from the individual homeowner.

Mr. Allen: No. All they pay is availability and connection charges.

Ms. Kirkman: And then I had a question... is an easement required for that line to go over the adjacent property?

Mr. Allen: Oh, absolutely.

Ms. Kirkman: And has that property owner agreed to that easement?

Mr. Allen: We've gotten a verbal agreement from the property owner to provide the easement.

Ms. Kirkman: Okay, and is the County having to pay... is the Utility Department having to pay for that easement?

Mr. Allen: We have not offered any cash for that easement, no.

Ms. Kirkman: Okay. And then, staff stated that that property owner had no desire to hook up. But I thought there was a requirement that if a line came through and you were within a certain distance of that line, you were required to either hook up or, at least, pay the hook-up fees? Isn't there something in our Utility Ordinance?

Mr. Allen: No. No, there is not. The requirement... you're referring to the 300 foot rule... if you're within 300 feet of a public water or sewer utility and you have a failure of your well or your drainfield, then instead of getting your well replaced or your drainfield repaired, you would have to hook up. But, lacking a failure, you would not be required to connect to the public sewer line.

Ms. Kirkman: Okay, so if a project comes through, you don't have to hook up unless you have a failure.

Mr. Allen: That's correct.

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Ms. Kirkman: Okay, thank you.

Mr. Rhodes: Mr. Chairman?

Mr. Howard: Yes, Mr. Rhodes.

Mr. Rhodes: Mr. Allen, if you could just clarify. The line that comes in along the two properties... I apologize, let me back up. You identified the hook-up fees as \$3,200 or \$2,100 or whatever the amounts were. Does that take the line to the home or does the homeowner also pay for connecting to wherever the eight inch line comes into?

Mr. Allen: The homeowner is always responsible for their own sewer lateral, from the building to the tap that we make in the public sewer.

Mr. Rhodes: So the tap would only come to the property line between the two properties, correct?

Mr. Allen: That's correct.

Mr. Rhodes: Okay, thank you. And, just so I better understand, under the pump and haul program, temporary or permanent, is there a charge... I understand from Mr. Zuraf's presentation that it costs about \$4,000 a year. Is there a charge to the homeowner as well?

Mr. Allen: Yes. The homeowner pays a sewer charge similar to any other public sewer customer...

Mr. Rhodes: Like they were connected.

Mr. Allen: That's correct.

Mr. Rhodes: And then the rest is subsidized.

Mr. Allen: It's a different rate because it's on an inclining block scale. They pay thirty-two cents per hundred for the first 6,000 gallons, \$1.00 per hundred for the next 4,000 gallons, and they pay \$7.00 per hundred for everything over 10,000 gallons a month. Now, as a matter of interest, we do not have any customers that exceed 6,000 gallons a month. So, it costs us \$7.00 per hundred; they pay thirty-two cents per hundred, so it's heavily subsidized.

Mr. Rhodes: Okay. Thank you very much.

Mr. Howard: Are there any other questions?

Mr. Fields: Mr. Chairman, if I might just... sort of indulge me for a second and add to the discussion of partly just because having served on the Board, we've had the fortune of having to be educated a lot deeper on Utilities than Planning Commissioners, and if I could just add. I want to make sure that it's clear that the money for the neighborhood projects comes from the availability fees, which just is a fee charged... not just the hook-up fee, it's the fee charged when you connect to sewer or water that is a general capitalization fund for the future sewer and water needs of the County. So, your monthly rate is not what's paying for that; it's the one time capital cost. It's basically like an impact fee for sewer that we charge to connect to sewer. A certain portion of that... at one point it was \$250 or sometimes \$500,000 a year, I don't know what it is currently... was set aside from the total availability fees

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collected to subsidize the neighborhood extension as a way of sort of equalizing the slow... as the Water and Sewer Utilities Department, even in the seventies, Stafford basically didn't have a utilities; it was a disaster. And so this is over time been partly how we've gotten ahead of the curve on that. But what it was decided is that a portion of that availability fee which capitalizes the maintenance and ongoing construction of the utilities sewer system and the wastewater treatment plants that it was decided to be it would be fair on particularly older smaller neighborhoods where this wasn't part of the original construction of the neighborhood many, many years ago, that on a sort of needs oriented basis they would have the capacity to at least apply for sewer or water. There are also neighborhood water extensions for the same reason. But that all comes out of the capitalization that new growth has paid for over the years through the hook-up fee. So, that may be more than you wanted to know.

Mr. Howard: I appreciate that. It's an accrual basically that is carried every year.

Mr. Fields: Of money that has always been dedicated for capital expansion, not for ongoing maintenance or operation.

Mr. Howard: Thank you, I appreciate that. Mrs. Hazard?

Mrs. Hazard: Just to make sure I understand since this is still new. My understanding, I think, of what you were saying is there are applications that are given to your office. One is that they would like pump and haul and the other one is a short term extension and it's a discretionary call within the department to allow temporary pending that application. Or is there an application for a temporary pump and haul?

Mr. Allen: There's no formal application, no. When someone has a drainfield failure and that's the reason for the request, then the Director is authorized to put them on temporary pump and haul.

Mrs. Hazard: But that would be given when there's an application though pending that there is something going to be done during that time. That what you are presenting to us tonight, they are on temporary pump and haul because they are reacting to the situation.

Mr. Allen: Because we are reacting to their application for short extension, that's correct.

Mr. Howard: Right, and the County is actually the applicant in this case; is that right?

Mr. Allen: It's our sewer project; we are proposing to build it so we are the applicant for the Comp Plan Review, yes.

Mr. Howard: Were there any other questions?

Ms. Kirkman: If you could just explain to me the logic of the Utility Department in not requiring an assessment for alternative drainfields prior to utilizing Utility funds to subsidize an extension.

Mr. Allen: The only answer I can give you is that many years ago, the Board formulated a policy for approval of water and sewer extension programs. And this was a category project that did not require justification.

Ms. Kirkman: And you don't have any regulatory or administrative discretion around that? This is something that the Board needs to address?

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Mr. Allen: This is a Board policy.

Ms. Kirkman: Okay, thank you.

Mr. Howard: How old is the house? Do you know the age of the home?

Mr. Allen: Mike says 1940.

Mr. Howard: And obviously the drainfields went in in 1940, is that fair to say, I would think?

Mr. Zuraf: I would say so.

Mr. Howard: Okay. Were there any other questions? Mr. Hirons, I think this is in Falmouth, if I'm not mistaken.

Mr. Fields: We actually have to have a public hearing.

Mr. Howard: Oh, that's right; we have to go to public hearing. After all that; I forgot we didn't do that. So I will now open up the public hearing. Anyone wishing to speak for or against the extension of the sanitary sewer line for Miracle Valley may do so by stepping up to the podium. State your name, your address, and you have three minutes to speak. And the green light means go, yellow light means you have about a minute and the red light means that we would love you to finish your comments. So, anyone wishing to speak, again, for or against may do so by stepping forward up to the podium. And I won't call your name so you can just run right up and give us your comments. Seeing no one advancing towards the podium, I will now close officially the public hearing and bring it back to the Planning Commission. And Mr. Hirons, I believe it's Falmouth; I think I had that right.

Mr. Hirons: Yes it is. I am actually a little concerned and I'm not sure if it's a concern I should have or if it's I just don't know as much about the subject as I possibly should. And what I'd like to ask for, if we could, have it deferred for one meeting. So, I would like to meet with the Utilities Department on this particular application to kind of get a little bit more of an education because obviously I don't know as much about the sewer as my fellow Commissioners. And as the former Board member has mentioned, the Board apparently knows plenty about the sewer. So am going to refrain from making a motion. I would ask for just a simple deferral. I will move to defer.

Ms. Kirkman: Second.

Mr. Howard: Okay. Any discussion?

Mr. Rhodes: Yes, Mr. Chairman. I would just, to add considerations as we are going through and going forward, I'm a little torn between a seventy year old structure, thirteen year payback when you are using pure dollars but if you do the present value of the \$4,000 revenue stream over time, it's probably twenty, twenty-five year payback in reality; \$52,000 today is worth a heck of a lot more than \$4,000 per annum. And so, I would just represent that at this point in time I'm not very comfortable with the proposal that's listed in there as being the wiser investment over time for a seventy year old structure and tying it to there. So, I would just share that as we are going forward for our further consideration. Thank you Mr. Chairman.

Mr. Howard: Thank you Mr. Rhodes. Any other discussion?

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Mr. Fields: Yeah, Mr. Howard, just for Mr. Hirons to put on his sort of things that he discusses, I would see if there is some possibility to throw the alternative system back into the mix and the decision making process. And also actually, what may seem counter-intuitive but actually might be more efficient, is if it looks like there might be a need over time because of soils and age of properties, at a certain point, would it make some sense for you and Ms. Stimpson and whoever else to possibly talk to some of the other residents and simply do a comprehensive extension of all the possible properties at one time. Is that cost effective and is there any logic to that? I know it seems like we're trying to avoid extensions but, sometimes if they're inevitable, it makes more sense to make them comprehensively.

Mr. Hirons: That kind of went through my head of is that an opportunity we can do as well.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: And I would add to that... my concern about this is not, although it's usually about extensions outside the Urban Service Area, my concern here really has to do with the soundness of the fiscal policy and so I really think that that's what needs to be examined first here. Perhaps, also, after we're done with this motion, we could entertain a motion to ask the Board to revisit its policy so that the Utilities Department can look at the alternative drainfield issue and its assessments.

Mr. Howard: Thank you. I actually think that they can; I just think it's not required. So I'm not sure a motion needs to happen. I think the Utilities Department can do that, they just don't have to so they don't.

Ms. Kirkman: After the motion, could we get clarification from Mr. Allen about that because I got the impression...

Mr. Howard: We can but that was actually the wording that he used; that it's not required. But we can ask him, sure. Or we can ask Mr. Harvey, he probably knows; he knows everything. Any other discussion on the motion on the table? Hearing none I will call for the vote. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed say nay. The ayes have it; it carries 7-0. We are deferring COM1000010 Comprehensive Plan Compliance Review, Miracle Valley Lane Sanitary Sewer Extension. I say that fast so Stacie has to get all that when she does the minutes. To when, to the next meeting? We didn't have a date on there so we'll put it on there and if it doesn't happen... what's the timeframe on this?

Mr. Fields: July 4th.

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Mr. Howard: Alright, we have time. So, it can be on the agenda; we may not be able to act on it though. Okay.

Ms. Kirkman: Excuse me, could I just ask Mr. Allen a question?

Mr. Howard: Let me just check something. I think we actually have another public hearing, right?

Ms. Kirkman: Just while he was here; I didn't want him to have to wait around.

Mr. Howard: Mr. Harvey, what is the answer to that question? We know it's not required but can Mr. Allen and his group actually explore alternatives prior to putting a house on temporary pump and haul? Alternative systems or extensions, or applying for an extension.

Mr. Harvey: I would assume that would be at the discretion of the department, as well as any discussion that the Board might have as far as their policies go.

Mr. Howard: Well, this hasn't gone to the Board yet, so we'll ask Mr. Allen. Mr. Allen, I was hesitating on bringing you back up because you did such a great job.

Mr. Allen: The policy is specifically written that there are no particular requirements for a short extension. All they have to demonstrate is that it requires less than 400 feet per applicant. So, for that reason, we don't require that they examine alternative systems for a short extension project.

Ms. Kirkman: But *could* you? Do you need the express authority of the Board to do that or, under your administrative authority, could you do that?

Mr. Allen: I think we would be very reluctant to put an applicant through a process that's not required by the policy. Now the question, could we, I hesitate to give you an answer on that. All I can tell you is that we've interpreted the policy to not require additional evaluation for short projects.

Ms. Kirkman: Okay.

15. Amendment to Subdivision Ordinance - Amendment to Section 22-4, Definitions, and Section 22-5, Family and Minor Subdivisions, of the Subdivision Ordinance pursuant to proposed Ordinance O10-17. The proposed ordinance will reduce the number of years that the property has to be owned from fifteen (15) to five (5) prior to the transfer to an immediate family member, and reduce the number of years that the lot will not be voluntarily transferred to a nonmember of the immediate family from fifteen (15) to five (5) years from the date of transfer. **(Time Limit: June 15, 2010)**

Mr. Howard: Okay, thank you. We'll now move onto item number 15 which is also a public hearing. It's the Amendment to Subdivision Ordinance; the public hearing is to amend Section 22-4 and Section 22-5. Section 22-4 is Definitions and Section 22-5 is Family and Minor Subdivisions. We will hear from staff.

Mrs. Hornung: Good evening Mr. Chairman, members of the Planning Commission. Andrea Hornung. March 2nd the Board of Supervisors referred the Resolution 10-77 to you to consider a few amendments to the Family Subdivision Ordinance. We've had several work sessions; March 17th you had a memo that gave you a little description and I also gave you a timeline of when the Family

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Subdivision Ordinance came into play and at which time there were special exceptions for family subdivision. And then it proceeded to have a five year limit which the family had to own the parcel for five years prior to subdividing it and then had to maintain that property within the family name for an additional five years. Then in September of '07 that restriction was amended again to make it fifteen years, so that the family had to own the property for fifteen years prior to subdividing it and then once it was subdivided, it could not be transferred to out of the family name for another fifteen years. And then in December of 2007 the Subdivision Ordinance was amended only for the size of the easement serving those lots. And on April 7th and April 21st you were given some information on the number of applications that were recorded that we have in our database and when, out of those recorded subdivisions, how many applications had lots transferred or, let me specify, what appeared to be transferred to a name that didn't match the application or the owner or the applicant from our database. But I don't want to imply that that transfer was out of the family name because there is no evidence to show that that definitely was changed from, for example, the Smith family who subdivided and just because the name was Jones didn't mean it was not a family member because people don't change their names or they change their names. So there's no evidence that I had access to to show that was necessarily out of the family name. And then also in the memos that you received, we gave you information of what parcels that appeared to have the properties transferred to a name outside of the... or not matching the application beyond the five years. Now, of all those applications, I can tell you that there are three lots out of the lots that were created that definitely were transferred out of the family name and that's because they went to a foreclosure. And that information was provided to you and that actually happened on lots that were recorded one in 2003, two in 2002 and they were transferred out after the five years. So I didn't have any substantial information that could tell me if they did transfer to a name that didn't match the application that it was definitely out of the family because you are able to transfer the property as long as it stays within the family. So, that's a little bit of background to bring you up to speed since we've had a couple meetings on this. Basically, the Board would like the Planning Commission to revisit that requirement and change the fifteen years to five years. I think a lot of it has to do with the economy and making it a little bit easier for those families who do own the property. Most families own the property five years versus fifteen years to be able to create a family subdivision in complying with our regulations for lots and streets, and then maintaining that property within the family name for an additional five years. And that is in the Ordinance O10-17. One other item is that during this it was noted that stepchild was not included in the definition, so stepchild was added because there is the rest of the definition that includes the linear family, mother, father, sister, brother, adopted, legal guardian, and then children and grandparents and grandchildren. So they wanted to include stepchildren because they are part of the family. But it does not go out laterally to aunts and uncles, nieces, nephews, cousins.

Mr. Howard: Thank you. I have a quick question, Mrs. Hornung. Isn't it really ten years though? I mean, wasn't it sort of a fifteen and fifteen previously so it really was almost a thirty year restriction and what's being proposed is five years... I think what's being proposed is it has to be held in the family for five years and a transfer is allowed to an immediate family member within the five year limitation but cannot be transferred to a non-family member until after another five years commences, is that right?

Mrs. Hornung: That is correct. Right now it's fifteen years that the property has to remain in the family after you subdivide. And, if it's changed, it would be a total of ten years that it would remain in the family name.

Mr. Howard: Okay, I don't think that was clear to me as I read this last night. Thank you. Does anyone else have questions for Mrs. Hornung? Okay.

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Ms. Kirkman: Yes, Mr. Chairman, I do.

Mr. Howard: Well, we're going to have the public hearing too so you can go ahead Ms. Kirkman.

Ms. Kirkman: Andrea, I know I communicated with Jeff about the information you put together because we had had some discussion about this at the prior meeting because you had included properties that weren't even subject to being transferred yet. And so I had requested some specific information broken out year by year. We didn't get that so as a shortcut I asked Mr. Harvey if we could get the number of family subdivisions recorded between 1998 and 2004. So, were you able to put together that too?

Mrs. Hornung: Ninety-six.

Ms. Kirkman: So, ninety-six. And of those how many were transferred before the five year period was up?

Mrs. Hornung: Seventeen lots. And that is transferred to a name that I could not connect directly...

Ms. Kirkman: Link back in some way, right. So, there were other transfers but we have reason to believe those were to family members.

Mrs. Hornung: Well, I know some of them, when it says so-and-so family trust, you don't count that.

Ms. Kirkman: Right. So, that was seventeen that were transferred prior to the five years expiring?

Mrs. Hornung: That is correct.

Ms. Kirkman: And how many were transferred after the five years expired?

Mrs. Hornung: Eleven. Eleven lots.

Ms. Kirkman: So that would be twenty-eight of the ninety-six.

Mrs. Hornung: Now, ninety-six is the number of applications recorded and...

Ms. Kirkman: Applications or lots recorded?

Mrs. Hornung: No, applications recorded because when we get a family subdivision it could be... there have been some that are one lot, two lots, three lots, as many as six lots. But when I looked at the transfer, I was interpreting that you wanted how many lots got transferred out.

Ms. Kirkman: Right.

Mrs. Hornung: So, probably I could say there are maybe a couple applications that had two lots. In my list that had two lots... there are a couple of them that had two lots that were transferred out.

Ms. Kirkman: So maybe there are a few more lots than ninety-six and we know there were some transferred... and you only followed for one transfer. So if it went to a family member you didn't then see if that family member sold it; you just stopped once it went to the family member.

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Mrs. Hornung: No, what I did was I looked at the application and the parent parcel that was subdivided. And so I went to the Commissioner or Revenue database and, let's say lot two, parcel two, was subdivided and so looking at the numerical designation, if it was 2A, B, C, D, I knew two lots were created. So I looked at the lots and I looked at the transfer information. If the transfer information on the lot had a date of 1991, 2003, 2005, I knew that was not one of the lots that were created because when a lot gets created, and if it's transferred, the first date of that date will be the date it was recorded. So there are some family subdivision lots that never transferred out from the person who created the subdivision. But of those did transfer, I had the information that it transferred. And except for the foreclosures, there were, once I got the list of who it transferred to, that was usually the last one in the list or the most recent, because we don't have a lot of the information. I did get some information from January 2010 but there wasn't any transfer after January 2010.

Ms. Kirkman: Okay, thank you.

Mr. Howard: How many family subdivision plans come in per year? I'm not asking you to do any scientific survey, I just want to know what you think.

Mrs. Hornung: Well, it definitely has dropped off since we added the fifteen year limit.

Mr. Howard: Okay.

Mr. Harvey: Mr. Chairman, I can give you the number for 2009.

Mr. Howard: Sure.

Mr. Harvey: The number for 2009 was two lots.

Mr. Howard: Two?

Mr. Harvey: One application.

Mrs. Hornung: Yeah, nothing has been submitted in 2009 and 2010. The last application that was received was actually August last year.

Mr. Howard: Okay. And do you know... again, if you don't have it, that's fine. I think one of the things we're going to talk about later on is how we do research. But do you know after... was it 2007 that the new Ordinance was passed?

Mrs. Hornung: Yes.

Mr. Howard: Okay. So, do you know in 2008 what was the number?

Mrs. Hornung: In 2008 there were thirteen applications recorded and I probably, since you had two, I actually had three, but there were some I had to go back and check because there were some applications that were mislabeled; like one was not approved, withdrawn. And when you close it out sometimes it comes up approved so I had to go into each one individually to verify that it wasn't a waiver or something that was mislabeled.

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Mr. Howard: Thank you. Mr. Harvey, maybe you can answer this, maybe Mrs. Hornung can. On a percentage basis, again, I don't care about the exact science, it's more anecdotal or directional, of the number of subdivisions that come into the County, how many are actually family subdivisions? Because it's been indicated or the theory has been that this is going on and people are getting over on us, so I guess I am trying to understand that.

Mr. Harvey: Yes, Mr. Chairman. Anticipating the question, we looked at the number of lots that were submitted for review last year based on major subdivisions and minor subdivisions, as well as family subdivisions. The totals for both the major and minor were 199 lots and for the family subdivision it was two lots. Two thousand nine is not a typical year that we've seen in the last decade, it's relatively slow. But it is probably fairly representative of...

Mr. Howard: From a percentage perspective?

Mr. Harvey: Yes.

Mr. Howard: I think what you're saying is normally you would see more subdivision plans coming in period, right?

Mr. Harvey: Yes. When things were really busy, we probably had twenty-some family subdivision lots in a year, but we may have had a thousand major and minor plat lots to review during that year.

Mr. Howard: Okay.

Mrs. Hornung: We averaged probably about two to three applications a month, but once the fifteen year came in, there were maybe a total of five in the year.

Mr. Howard: Okay, thank you. Are there any other questions?

Ms. Kirkman: Yes, I had a follow-up to that. So, if we didn't have family subdivision... I mean, we're required to... but if we didn't and somebody just wanted to create one lot, that would come under a minor subdivision. Is that correct?

Mr. Harvey: Correct.

Ms. Kirkman: So, of those 199 lots, how many of those were created through minor subdivisions? Because it really doesn't seem like an equal comparison to compare a family subdivision to a major subdivision.

Mr. Harvey: The minor subdivision lots for last year, there was a total of six.

Ms. Kirkman: Six. And two family subdivisions. So, the proportions are very different when you look at minor subdivisions versus major subdivisions.

Mr. Howard: Well, I understand that and I appreciate that, but the allegation or the inference was made that this is a way for years that people in our County were getting over on us and I think that was something that we needed to understand if, in fact, there was a pattern of that. And I don't know that we know that or don't know that at this point anyway. So, if there are no further questions, we can open up the public hearing. Are there any other questions? Hearing none, we'll open up the public

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hearing for the proposed Ordinance O10-17 and Resolution R10-77. Anyone wishing to speak may do so by coming forward and stepping up to the podium. You have to state your name, your address; you have three minutes, when the green light goes on two minutes basically, when the yellow light goes on you have a minute and when the red light goes on we would ask that you conclude your comments. And we don't address you directly but we will certainly take into consideration everything that you say to us. So, if there is anyone that would just like to step up to the podium. The two of you who I think are public may do so. Seeing no movement at all, I will close the public hearing and will bring it back to the Planning Commission for further consideration. Okay, any discussion on the matter?

Mr. Fields: We need a motion I think first, don't we?

Mr. Howard: Yeah, I guess after a public hearing we should have a motion.

Mr. Mitchell: Mr. Chairman, I make a motion for approval I believe it's of proposed Ordinance O10-17.

Mr. Howard: Motion on the table; is there a second?

Mr. Hirons: I second the motion.

Mr. Howard: Second by Mr. Hirons; the motion was made by Mr. Mitchell. Any discussion on the matter?

Mr. Fields: Yes sir. I think there's a lot of detail that's hard to get at and, I guess what it finally boils down to in my mind is that several years ago, this has always been a point of discussion and tweaking in an attempt to get at something equitable and fair for the landowner that wants to keep his or her family in proximity, which I've always supported as a way of creating communities specifically representing a district that has people on the same land for 400 years. I've never, in any way, shape or form wanted to create a barrier to those families that have been there for eighteen generations staying there. If that's indeed the case, then the length of time is almost irrelevant. If the idea is to be able to turn it over for a profit in ten years, I have an issue with that. In looking at the family subdivision, even past County Attorneys have advised me that it's probably questionable under a serious legal challenge where they're creating a family subdivision is even doable. Because you are creating, for whatever reason, even if the intentions are good, you are creating a privileged class of landowner that gets to subdivide their property under rules different from everybody else. I'm willing to make that trade-off to create a privilege to those landowners in exchange for what I think is the compelling public benefit to both their large extended families and to the community as a whole to have continuity of place over time with the same families. I think that privilege that the County extends to them has commensurate responsibility for them to do their best to keep it as a continuity of the family. And, if that is indeed the case, fifteen years doesn't pose any hardship. If there is a hardship and you can get a waiver from the Board, you can get a waiver from the Board. The only reason to reduce the amount of time is to make it easier for people to do family subdivisions and then sell the subdivided property for a profit after a minimum amount of time. Some people may say hey, this is how I'm going to finance my college education. That's fine, but then if your intent is long term, even ten years or fifteen years to sell it for a profit, you should do it under the minor subdivision rules. You shouldn't be granted a special privileged place to make money. Speculate on your land, on the short term, using a set of rules that were designed to create continuity of place and family.

Mr. Howard: Thank you. Mr. Mitchell.

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Mr. Mitchell: Mr. Chairman, Pete and I served simultaneously and this was an issue which came before our Board. And it's kind of a double-edged sword. One of the things I've been reading recently, there is a tremendous increase in caregivers. Now, when I say caregivers, let me say specifically that a daughter and her husband move in and get a property adjacent to her parents or his parents, if doesn't matter at this point. We have a tremendous increase as the baby boomers retire and get older and older and older, there are a lot of daughters and sons that are moving in next to their parents and actually becoming caregivers. I feel, in my heart, that this would give children not a chance to subdivide a piece of land for sale, it would give them a chance to move in close to mom or dad and potentially, at some point in their lifetime, they may be the caregiver. Not everyone can afford a separate home as far as putting someone into assisted care, assisted living; a lot of caregivers are involved in this. The recent AARP magazine specifically calls out that men are right now the largest class of caregivers that are increasing as we go. So, I look at it as not as a potential to sell land, but I look at it as a potential, if you are a caregiver and you cannot afford a home, as far as putting your parents or whatever, grandparents, into an assisted care, this would give them the ability to live beside mom or dad, grandmom or granddad, and assist them. Thank you Mr. Chairman.

Mr. Howard: Thank you Mr. Mitchell.

Ms. Kirkman: Mr. Chair, I fully support Mr. Mitchell's reasoning that we need to do everything we can to support extended families and caregivers. And certainly one of the ways we can do that is by crafting a zoning ordinance that recognizes accessory uses for caregivers. However, even by the rough estimates of staff, it looks as though at least thirty percent of the lots created through family subdivisions, on a very short timeframe, don't remain in the family. And that says something significantly about the ways in which this was used when it was only a five year limitation. And so I concur with Mr. Fields; I am going to oppose the motion.

Mr. Howard: Thank you. Any other further discussion? Hearing none, I will call for the vote. All those in favor of Mr. Mitchell's motion signify by saying aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. All those opposed signify by saying nay.

Mr. Rhodes: Nay.

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Howard: The vote passes 4 to 3. Did you get the vote count Stacie?

Mrs. Stinnette: Yes.

Mr. Howard: Okay. I know you got the count, but did you get who counted which way?

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Mrs. Stinnette: Yes.

Mr. Howard: Thank you. And we will move now to the Planning Director's Report.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Mr. Chairman, I previously gave that report during the work session.

Mr. Howard: You have nothing to add?

Mr. Harvey: No sir.

Mr. Howard: Seriously? That was really good actually. County Attorney's Report?

Mrs. Roberts: Don't we have to go back to new business?

Mr. Harvey: Oh, yes Mr. Chairman, we do.

Mr. Howard: Oh, yes we do.

Mr. Harvey: We don't want to forget 9 and 10, Structures and Fees.

Mr. Howard: Okay, let's go back to number 9.

9. Nonconforming Structures

Mr. Harvey: Mr. Chairman, Nonconforming Structures is an issue referred to you by the Board of Supervisors to deal with situations where somebody wanted to put an addition on their house, however, the house may violate a setback but the addition won't materially affect the setback. This proposed ordinance would allow that to be done administratively. Currently it requires a special exception. Ms. Hudson from our office is here to answer any questions you may have about that process. Previously, we had given the Board some information about the number of cases that we have sent forward to the BZA, as well as the number of cases that have been approved.

Mr. Howard: Thank you.

Ms. Hudson: Good evening Mr. Chair, members of the Commission. My name is Rachel Hudson. We did do a background check when we sent information up to the Board regarding special exceptions for increasing the square footage of a nonconforming single-family structure. In 2008, we had four applications for that; all were approved. In 2009, we had one application increasing, with approval. And thus far in 2010, we've had two, which were approved.

Mr. Howard: Thank you Ms. Hudson. Did you have anything else to add to that?

Ms. Hudson: I really don't. If you have a specific question that I might be able to answer, I would be glad to do that.

Mr. Howard: Okay, I will bring it back to the Commission. Are there any questions of Ms. Hudson or other staff regarding item number 9?

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Ms. Kirkman: Do you know, given the very small numbers of situations in which the supplies what the impetus for changing the law is?

Ms. Hudson: I'm not positive about that. I just know that an applicant that comes before the BZA for a special exception for such a request, the fee is \$600. That's a lot of money. If this were approved by the Board, it would be approved as a by-right use as long as they weren't increasing the nonconformity. It would be permitted by permit.

Ms. Kirkman: And, with a special exception, is the BZA allowed to impose conditions?

Ms. Hudson: Yes.

Ms. Kirkman: And, if it's by-right, would conditions be allowed to be imposed?

Ms. Hudson: That has not been discussed to my knowledge. Jeff, do you...?

Mr. Harvey: No, we haven't discussed any particular matters. Normally in the permit process, the Zoning Administrator can place conditions on a permit and if there was something that we felt was appropriate, we could impose it on the Certificate of Occupancy. But, again, the ordinance is fairly limited in that you cannot be increasing the nonconforming aspect of the structure with the addition. Elsewise they would not be eligible for this process; they would have to go before the Board of Zoning Appeals for a variance.

Mr. Fields: Mr. Chairman, I know I had to step out but I'm not sure I understand, I guess, the technical definition here of what nonconformity means. Can you go through that? I apologize if you've already said that. What are the parameters that allow you to increase the square footage of a building without increasing its nonconformity? I mean, it's conformity to usage like it's in a single-family subdivision so it's still a single-family home?

Ms. Hudson: It is usually setback; if you have a nonconforming single-family home that doesn't meet setback on the side, you cannot increase that nonconformity. You would be allowed to increase the square footage of the home on the rear, the other side, the front, whatever, but you could not increase that setback nonconformity.

Mr. Howard: And if the current setback didn't meet the zoning, you could leave it but still build...

Ms. Hudson: At another location.

Mr. Howard: But still attaching to the same building that's nonconforming.

Ms. Hudson: Yes, you can increase the square footage.

Mr. Howard: And then you wouldn't have to go before the BZA.

Ms. Hudson: That's correct. If you thought you had to increase the nonconformity, as Jeff said, that would require a variance from the Board of Zoning Appeals and that's a difficult process.

Mr. Fields: Can you give me an example of... just sort of a theoretical example of a type of neighborhood or structure where this difference would apply? I'm just sort of trying to envision in my

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head, if you can give me kind of a living, breathing example of what this is about. I don't mean to put you on the spot; I apologize for that. This is just a genuine effort on my part to get my head around this issue.

Ms. Kirkman: The types of things we would see in the BZA, they were rare, but it would be, for instance, they had a porch that encroached on the setback by five feet and they wanted to put an addition on the back. So, it would not increase the encroachment on the setback but it would... I mean, it continues the life of the nonconforming structure which is a different issue. But that's the type of situations you would see.

Mr. Fields: I guess I'm sort of getting at are we talking about like sort of a very natural evolution of the expansion of homes in older areas versus the sort of it hasn't quite hit here as badly yet as it is, let's say, in the denser urban areas to tear down the complete revision of the character of a neighborhood by new construction. This is not permitting more of that; it's simply permitting sort of the natural growth and adaptation of the character of the neighborhood still?

Ms. Hudson: I believe so. And a lot of the cases that we've seen are the smaller homes. You know, the families have enlarged and they need more room; mom and dad might be moving in to be take care of, whatever. You need to add another room. I would say they could not afford to buy a larger home and they want to stay where they are.

Mr. Fields: Those are great things. I guess my question is, and I'm being very specific here, I have a concern let's say just in my part of the world that I'm familiar with, having several older neighborhoods in the George Washington District; let's say Ferry Farm would be a great example. There are some fairly amazingly small houses on amazingly large lots still in Ferry Farms. So, I can see lots where you could double or triple the size and not be pushing the side, front and rear setbacks, but significantly changing the character of that property, which is great. I mean, in one sense that's fine to a certain degree. The question with that is always equity to the neighborhood, how you've skewed now the nature and the values of property in the neighborhood to everybody else that may not be able to suddenly turn a 1955 1,000 foot Rambler into a 3,000 square foot, three-story townhome sitting next to a bunch of 1,000 square foot Ramblers that now seem significantly more modest. So, I guess I'm concerned about does this enable that up to the limit of the setback? Can you really, if you wanted to, significantly increase the size if you had a property situation where you had a larger lot typically than we have in most subdivisions?

Ms. Hudson: Well, we have open space requirements in the residential districts, in all the zoning districts. And they could not exceed the percentage of open space.

Mr. Fields: Oh, I understand. And it may be a very specific thing to some of these older neighborhoods. Ferry Farm has some lots, for example, I can tell you that they're significantly sized lots because they were all built a long time ago with very small houses on them. And I could see, without pushing even the current setback requirements typical to R-1 zoning, you could double or triple the volume of that house without... I would think. But, you know, maybe I'm wrong. I'm just trying to understand it, that's all.

Mr. Howard: Well, I think you could probably do that now, even if you went before the BZA.

Ms. Kirkman: Mr. Fields, I think, while your concern is genuine, there's nothing to prevent people from doing that now as long as they comply with all the requirements.

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Mr. Fields: Right; understood. Thank you.

Ms. Kirkman: My bigger concern, Rachel, has more to do with the whole notion of nonconformities and my understanding of the idea behind restricting expansion of nonconforming structures is that ultimately the goal is to see the discontinuation of those nonconforming structures and conforming structures instead built. And this legislation would be contradictory to that goal of seeing the discontinuation of the nonconforming structure. Am I understanding that correctly?

Ms. Hudson: I follow what you're saying.

Ms. Kirkman: Okay, thank you.

Mr. Howard: I'm not sure I would come to the same conclusion. This isn't saying in the future you can build a nonconforming structure. You would be permitted to build a nonconforming structure.

Ms. Hudson: No, and many times the Code changes. We've had many changes in the Code.

Mr. Howard: Absolutely. The last three years we've had tons.

Ms. Hudson: And we've created an issue for someone that has built to the Code that they were supposed to build to.

Mr. Howard: At that time. And now it's nonconforming.

Ms. Hudson: That's correct.

Mrs. Hazard: Mr. Chairman, wasn't the impetus for this way back from this House Bill in April of 2009 concerning that there was damage or destroyed by natural disaster? Wasn't that the impetus that got this started?

Ms. Hudson: No.

Mrs. Hazard: No? Or did I get that mixed with...

Ms. Hudson: That's the other one.

Mr. Howard: Well, the Board of Supervisors has sent this back to us, or has sent it to us I should say, from their April 20th meeting. And is really requesting us to kind of wordsmith it a little bit, give some recommendations and then hold a public hearing, is that right Mr. Harvey?

Mr. Harvey: Correct.

Mr. Howard: Was there a timeframe on that? Or what is the timeframe since it was referred; there is a timeframe but I just don't know what it is.

Mr. Harvey: It would be ninety days from the date of the Board's referral for you to conduct your public hearing and make your recommendation.

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Mr. Howard: Okay, so we have some time. This is one of those issues that we can certainly bring back to the next work session and have some additional dialogue once everyone, I think, thinks through the definitions. Is there anything else that we would want staff to bring back to us on this? No? Okay. Great. We'll move it to the next work session. Do we have room on that Mr. Harvey?

Mr. Harvey: I believe we do.

Mr. Howard: Okay. Mr. Rhodes?

Mr. Rhodes: Mr. Chairman, given our current schedule, I think we have four more meetings before we would need to have this all resolved. I believe we've got the one more in May, two in June and one in July.

Mr. Howard: Right, thank you.

Ms. Hudson: Thank you.

Mr. Howard: Thank you Ms. Hudson; I appreciate that. So now we'll move to item 10 which is Fees for Minor Revisions to Planning and Zoning Applications. And here we have Mrs. Hornung to review that with us.

10. Fees for Minor Revisions to Planning and Zoning Applications

Mrs. Hornung: Hello again. This topic emanated from a Board committee of Mr. Fields and Mr. Crisp. And we were looking at fees in general and now they had decided now is not the time to do a revamp of our fee schedule. But they did want to look at some items as a result of some applications that have come through, not during this adopted fee schedule but a previously adopted fee schedules. And I do have some further information... I believe the Commission wanted some further information on how many applications come under this category. What happens is when a proffer amendment comes before the Commission and the Board, they have to pay the current fee for a proffer amendment, which we do have proffer amendment separated out as a separate fee. And currently that would be about \$10,540 plus the adjacent property owner fee and then \$25 per acre over five acres. But that doesn't necessarily mean that's the base fee because if there's a fire review, I already included a fire review. But if there's no fire review, that would be reduced by \$125. If there's no utility review that would be reduced by \$215, and the transportation review of \$200 was included. So, when we go through a proffer amendment we do have the base fee that is a Planning and Zoning fee of \$10,000 plus \$25 per acre over five acres, and then plus the \$6.48 per adjacent property owner.

Mr. Howard: But those items you mentioned are itemized within that fee.

Mrs. Hornung: That is correct. The fire, utilities and public works, which is actually the transportation review, they are in addition to that \$10,000 base fee for Planning and Zoning. And so the Board wanted to look at reducing the fee and including text amendments in our Zoning Ordinance to allow the proffer amendments for maybe a few conditions. One example is the Vulcan that came before you last year. They just changed the hours of operation. While initially it was going to be not a lot of detail that needed to go through more than one Commission, there were a lot of issues that came out that resulted in a few meetings before it was voted to the Board. But the fees that were paid were the same fee that would have been paid for a proffer amendment whether you amend all the proffers or one of them. So, in the staff report, you see that they want to allow a minor amendment to proffer

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amendments so that there would only be no more than two changes and this would go to the same for a Conditional Use Permit; allow an extension of time. The hospital came in last year, they had to pay the full proffer amendment fee just to extend the time. And then no increase in the use intensity or the functionality. Now, in a Conditional Use Permit application, if an application comes before you to amend one or many of the conditions, they have to pay the full fee as if it was a brand new Conditional Use Permit. So that fee, the Planning and Zoning base fee, is \$9,750 with today's fee schedule. They also would pay an additional \$125 per acre over the five acres and then the adjacent property notification letter, which is \$6.48. And that would be per public hearing. Now, you have fire, utilities and public works that have additional fees for review and if a review would include them, we would charge that additional fee. So you could look at \$10,060 plus for somebody to come in and amend one item on the Conditional Use Permit conditions. Also, for a major site plan, currently we do have a fee for a major site plan revision. It doesn't matter if it's moving dumpster or adding a building. So, that fee right now, including Stormwater E&S, if that's a review, fire, utilities, public works which is a transportation review, that base fee could be as much as \$6,190. So, the Board was reviewing this issue and wanted to send to you a sample ordinance of where we had amended the text in the ordinance to allow minor amendments to a major site plan revision, Conditional Use Permit condition and proffer amendments, but they would be subject to only two items to be changed for a Conditional Use Permit... no more than two... or proffer amendment and also if it was an extension of time and no increase in use, intensity or functionality. That's the big item is that if there was a minor amendment to these applications, they would not affect the use, intensity or functionality of the project. And then the major site plan would not affect the increase in parking, which it falls into our definition.

Mr. Howard: Is that actually listed here Mrs. Hornung?

Mrs. Hornung: I'm sorry?

Mr. Howard: Is that actually listed within this ordinance because if it is, I'm not catching that.

Mrs. Hornung: In Ordinance O10-31, we have a number of texts. The 28-163 is the one that addresses proffers, so that you would have major proffer amendments or minor proffer amendments.

Mr. Howard: So, are they suggesting that there would be no fee for a minor?

Mrs. Hornung: No. That would be a reduced fee.

Mr. Howard: What is that?

Mrs. Hornung: In looking at the fees, we've estimated it would be about half. But keep in mind, it still goes to the Planning Commission, it still goes to the Board of Supervisors and when staff had done the fee study, the fee of the application was taken into account at least two public hearings, Planning Commission and Board of Supervisors, staff that are involved and the salaries of that staff, cost allocation of other departments that are included. But the Board wanted to have a reduced fee so we were looking at it, without having done more detailed of an exact cost analysis, assume that it could be half of what the current fee is. But that fee has not been finalized at what that fee could be.

Mr. Howard: So, what I think you're saying is a quick back of the envelope math say we would be sort of revenue neutral if we went to the half versus making a slight profit on the higher costs. Is that what you're telling us?

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Mrs. Hornung: Right. And there's also a statement in there, I know I read it, that if somebody applies for a minor amendment and staff sees that it doesn't follow that requirement and those conditions, then they would have to follow the appropriate application; just like when we get applications in now, if they don't fill out the correct application for their request, staff makes that change. So it doesn't assume that you're going to get an application for a minor proffer amendment and then really it should have been a major proffer amendment. And then Section 28-185 addresses the Conditional Use Permits and provides conditions, no more than two conditions to be amended, they don't materially affect the site layout or intensity, use or functionality, and then applications, they may be exempt from the requirements of Section 28-185(b)5 or in proffers 28-203(e). That's going back to the full application for proffers and Conditional Use Permit. And then 28-203, it says pursuant to 28-163(b) that unless the requirement is waived, pursuant to 28-163 or in accordance with the section, then the application for rezoning shall be accompanied by a GDP and they would follow the process as if it was a brand new one. Section 28-254, that comes under the major site plan and the minor revisions to a major development plan or major site plan as we also call it, it would be the changes do not materially affect the site layout, intensity, use or functionality. And it would be able to correct non-engineering errors. And some items sometimes can be handled as an as-built, which is at the end of the project prior to their certificate of occupancy. But there may be other items that aren't appropriate at that time so we would need to revise the site plan as it was approved. So you just have the text amendment and the fees are not before you because that hasn't been finalized at what an appropriate fee would be. And the fees go straight to the Board.

Ms. Kirkman: Mr. Chair? You said this was part of a fee study? This came out of a fee study?

Mrs. Hornung: No, it came out of the Board Fee Committee of Mr. Milde and Mr. Crisp. They didn't want the entire fee schedule to be reviewed and amended at this time, but they wanted to tackle or target these three items to make it more palatable for a minor amendment to a proffer or a Conditional Use Permit or a site plan revision that wasn't as expensive as if you were coming in with a brand new proffer for a rezoning... I mean the regular proffer amendment for multiple items or amend a Conditional Use Permit application, because we don't have in our fee schedule or in our ordinance the ability to charge for a minor amendment to a Conditional Use Permit condition. And they felt that the existing fee for a proffer amendment, being a base fee of \$10,500 plus maybe a few other things, that that was exorbitant if they were just maybe changing the hours or if they were extending the time like the hospital did.

Ms. Kirkman: And, perhaps Mr. Harvey would be in the best position to comment on this, isn't at least the concept supposed to be that the fees from applications fully support the operations of the Planning Department?

Mr. Harvey: Mr. Chairman and Ms. Kirkman, the philosophy that the Board has taken in the past is that all development projects, their cost for the County to review them should be recouped back to the County. There is also another philosophical issue about how much of the Planning and Zoning Department should be fee supported versus general fund supported. That's changed over the years, but in general, the approach that has been taken is we take an estimate of the typical application and cost it out based on man hours, materials, etcetera.

Ms. Kirkman: And what does this do to the revenues... like what kind of budget impact does reducing these fees have? Has anybody looked at that?

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Mr. Harvey: As far as budgetary impact, we haven't looked at it specifically. We do know that these types of applications aren't very... they don't happen extremely often. We get a number of them during the year, especially the revisions of site plans. That is probably a thing that is more prevalent than any of them. But, again, when you look at what's involved with a revision to a site plan, if it's a minor revision it's not going to require nearly as much staff review as a major revision would.

Ms. Kirkman: I thought there was a... maybe I'm thinking of the thing that was done by the short-lived internal auditor. Didn't she do some look at fees in the Planning Department?

Mr. Harvey: Yes. The auditor looked at the overall fee philosophy for the County. One of the recommendations was that we consider looking at going to a fee where we had direct charges, that every time someone submitted something to us we would bill them directly based on the hours we put in. At this point in time, it has been decided that we aren't going to move forward with that, but the Board Committee is looking at other manners to maybe try to get a more equitable fee schedule. They are looking at the possibility of having some tiered categories similar to what we are doing here, where you may have different levels of applications for different types of things. Like Conditional Use Permits you may have places of worship and other types of similar activities in one fee category, you may have quarries and shopping centers in another fee category because they are a higher intensity and probably more staff work involved. But that's still an ongoing discussion with the Board's Committee.

Ms. Kirkman: Thank you.

Mr. Howard: Thank you. Any other questions for staff on this?

Mrs. Hornung: I have a few statistics if you want to call them statistics.

Mr. Howard: We would love to hear them.

Mrs. Hornung: You want numbers? I'll give you numbers. Since September 2009, we've only had four revisions to major site plans. And one did not pay a fee because it was a County project and the other three paid... the lowest was \$6,700 and the highest was \$7,065 for their revision. Only eleven applications since September of '09 were submitted in totality, but four of those were revisions. So, that's not many non-residential site plans.

Mr. Howard: Right.

Mrs. Hornung: Now, looking at...

Ms. Kirkman: Excuse me... that was four of eleven?

Mrs. Hornung: Right.

Ms. Kirkman: So, that's about a third.

Mrs. Hornung: Right. Only eleven applications were submitted since September of '09 for major site plans; but four of those were revisions. So, we were lucky to get the revisions. Out of proffer amendments, none were submitted since September. The proffer amendments that everybody remembers are the ones that were basically submitted in the spring last year. We had the hospital, the Taylor Industrial Park and the Stafford Nursing Home; and then a church; well, Stafford Crossing

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Community Church came back. Only four proffer amendments were submitted between November of '08 and June of '09, but none since June of '09. So they would have been at the old fee schedule, not under the current fee schedule that was effective September 2009. And only two Conditional Use Permit amendments were submitted since July of '09 to the present, which I use today's date. And one was the hospital and one was Virginia Paving and they were under last year's fee schedule; nothing under this current fee schedule effective September 2009. So we don't see that many but they are there.

Mr. Howard: Okay, thank you. Mr. Fields?

Mr. Fields: Jeff, in general do you have a ball park under the current fiscal year of about what percentage of the total Planning Department is fee supported and what percentage is general funded? If you don't, that's okay.

Mr. Harvey: Throughout this year it's been around forty percent fee supported, sixty percent general fund. In past years, the target had been seventy percent, but the last two years we haven't made that threshold.

Mr. Fields: That's what I recall is at seventy percent fee supported, right, for Planning?

Mr. Harvey: That was the target. And it also reflects where our level of activities has been in our staffing too. For a lot of the staffing that we've reduced over the last three years, almost all of it has been in the development review side of the house. So there are a lot of functions, like this ordinance that we're talking about tonight, that's an administrative issue that you can't tie a fee to.

Mr. Fields: Though the fee supported numbers for the department have been reduced, but so have staff. You've reduced your staff over the last three or four years?

Mr. Harvey: Yes.

Mr. Fields: Okay. I know countywide there has, I just haven't seen the breakdowns of that. Thanks.

Mr. Howard: Well, and I guess the other side of the coin is if we came up with the right tiered approach, you would hope that you might see more applications come in on the minor side which could generate additional revenue otherwise people may not have applied for; because, if you have to move a garbage dumpster, as the example on a site plan, I'm not going to pay the full fee. But you give me an opportunity to come in at a lower fee, I am more inclined to do something minor that could improve my business and also improve the site.

Mrs. Hornung: And that may be a poor example because moving a dumpster, as long as it doesn't affect anything else, it might be on the as-built and not an application.

Mr. Howard: Right. But I understood what you meant. There's other minor site plan changes that you might want to make.

Mrs. Hornung: Right; they don't affect the building, they have minimal impact on the site.

Mr. Howard: Right. And people today, I know coming from that side of the fence, you live with what you have and you don't try to make a change, you just won't. But you also don't want to see the

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County on this side of the fence lose any revenue or, you know, a 60/40 split is not acceptable. The target is seventy for a reason because, to a certain extent, the Planning Department has to be somewhat self-sufficient or self-sustaining, based off the revenue it generates from projects. So that has to happen, just from a taxpayer perspective, otherwise you can't afford a Planning Department. So 40/60 is not good. I'm sure Jeff feels the pressure on that.

Mr. Fields: What if the nature of the work, if the forty is a reduction in the direct plan review work, then the percentages may have changed but the amount of work, the amount of general fund subsidized work may be consistent; it just reflects the difference in how much of it was plan review and how much isn't in the current environment. If there is a reduction in staff, right? Would you say that that sixty percent is the same number that was thirty percent with a bigger staff doing more development review?

Mr. Harvey: I haven't looked at that but I am sure there is some correlation between that because...

Mr. Fields: Say yes... I'm throwing you a bone here Jeff.

Mr. Howard: It may not be true though; we may be spending more taxpayer dollars for functions we could get developers and others to pay for.

Mr. Fields: It's an important balance, I agree.

Mrs. Hornung: There are a lot of other functions that like the development review staff do like the ordinances or special projects or different things like that that are not receiving any revenue.

Mr. Howard: Yeah, the professional services fee is an interesting concept because you get hit when we bring a consultant in. And if we were to charge developers that same type of charge back, create an account and charge them for that fee, I'll bet you a lot more applications would come in cleaner, more accurate, and you'd be doing things twice a lot less... I would think.

Ms. Kirkman: I think the value of that approach is some applicants might be far less prone to throw in what they can and see what sticks instead of just getting it right the first time.

Mr. Howard: Yeah, that should be explored. I hope they do that. That could help the County quite a bit. Okay, so, again, this was referred to us and I didn't see the date of referral on here.

Mr. Harvey: The same timeframe as the other ordinance.

Mrs. Hornung: April 20th is when it was referred; Resolution R10-111.

Mr. Howard: So, we can also put this on the work session for the next meeting Mr. Harvey?

Mr. Harvey: Will do.

Mrs. Hornung: Mr. Chairman, is there any particular type of information that you're looking for, for this to come to the work session?

Mr. Howard: Well, I think you just gave us some very good anecdotal numbers. I don't think so but I will ask the Commission. I will defer to the will of the Commission.

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Ms. Kirkman: I think it would be helpful to go back a little further than just mid-2009 to get a sense of these because certainly there may be any number of reasons why people held off applying during the last part of 2009. So I think it would be perhaps more appropriate to go back a little further.

Mr. Howard: How much time did it take because recognizing we don't get a fee reimbursement for this, how much staff time did it take to get those other numbers?

Mrs. Hornung: Well, for one year that was easy, because there weren't that many applications. And the information that's in the database is very detailed today. But back in '98 it's not as detailed.

Ms. Kirkman: I'm not suggesting anything like that.

Mrs. Hornung: How far would you like... five years?

Mr. Howard: Well, let's practice this. One of the best practices I was going to introduce tonight during my report is the will of the Commission. So, a lot of people make suggestions and ideas and I think what we've done in the past, and I think the staff has handled it very well, is we've really sent you off in a lot of different directions and you come back and we say well we asked for this, this and this. So, I would like to come back as a group and say kind of what's most important to the whole panel and render a conclusion and direct staff that way. So, is it two years? I don't know. Is it three years? Ms. Kirkman, what were your thoughts and then let's throw it out there to see what sticks.

Ms. Kirkman: I'm certainly willing to let staff say what they think would be more representative. The only point I was making is just focusing on the last part of 2009.

Mr. Howard: I agree with your thought; I bring it up now because, not of criticism of what you're asking, it's more directional as we move forward that we've got to come together I think better in what we're asking for.

Mr. Fields: Mr. Chairman, I would offer that certainly, even if it's a slice of time as opposed to a cumulative affect, somewhere in the 2002/2006 when there was just an absolutely huge amount of applications going through the County would be somewhat representative of what if there's a return to that volume, what the kind of levels were. Like I said, it doesn't have to be a cumulative average; you know, you can pick like a point in time and just sort of get a snapshot. I think, while I'm not speaking for Ms. Kirkman, that would suffice but it would need to be in one of those heavy volume years where we were doing 2,000 building permits a year.

Mr. Howard: So when you say database, is this an access database? Is it excel? What's the format?

Mrs. Hornung: It's our Hansen database. What kind of format? It's probably a type of a d-base but you're not able to go in and manipulate it; it's manipulated by IT.

Mr. Howard: So you have to put in a request for the specific criteria and then they throw it into...

Mrs. Hornung: I can or I can do a list manually like I did for the family. I just call up the type of application, I sort by date and I open them up and I just go through the description and in the description it will say a proffer amendment to do this or a Conditional Use Permit to amend condition 3. So there is that information in there and I am pretty confident that even as far back as '05 that I just click on the front tab and get that description; and I can figure that out. And I can give you the fee that

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they paid, which would have been the fee at that time because fiscal '08/'09 and '10 is when we revised it and the last two years is when we did look at a fee study to look at productivity and the time that staff used and the cost allocation study which is two years prior... two and a half or three years, I think, that was completed three years before now. It's always three years behind.

Mr. Howard: Well, it sounds like you're confident with 2005?

Mrs. Hornung: Yes. Actually I did even a list of...

Mr. Howard: Confident in terms of I can easily get that for the next meeting.

Mrs. Hornung: Oh yeah. That's a lot easier than what I was doing for family because I was comparing it to another database which was the Commissioner of Revenue and tax parcels. But this is just looking at the description of the application and that won't be a problem. And sometimes, like in a major site plan, we put in the title "rev" for a revision. So that's easy to know and you don't need to know if it was approved; you just need to know what's been submitted.

Mr. Howard: Right; they pay the fee whether it's approved or not.

Mrs. Hornung: Yes. And then clicking on another tab for the total fee; I don't even have to figure it out. So it has a fee for that application.

Mr. Howard: I hear what you're saying, Mr. Fields, about 2002. I actually recognize... I was here then and the number of building that occurred was extensive. But if that's going to be more difficult...

Mr. Fields: No, 2005 is fine. I was just asking for something in that busier timeframe. Whatever is easy.

Mr. Hirons: But, kind of going from the low water mark to the high water mark isn't the best approach either; I think something in the middle.

Mr. Howard: So, let's start with 2005.

Ms. Kirkman: Mr. Chair, one of the things to recognize. This isn't really about building permits; it's about plan applications and, in fact, you probably see more of your amendments coming in in the sort of later years of the booms because people put in the original plans and then went to amend them in later years. So, I'm perfectly comfortable with...

Mrs. Hornung: When the economy changed there were amendments coming in or timelines expired when they had a time set.

Mr. Howard: I would think it's typically twelve months after the original plan. Okay. So, we're good with that?

Mr. Mitchell: I have no problem with that Mr. Chairman. Just a personal observation. If a marriage license cost as much as a proffer amendment, you wouldn't see very many of them. So the price of the product is a direct relationship; how badly do I want it? How badly do I want the proffer amendment? Do I want to pay \$10,000 for a proffer amendment? So, the price is very restrictive and so, like the hospital, only someone that has the funding could walk in and lay down \$10,000 knowing full well it

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was just an amendment to a proffer. And again, like I say, the direct cost will depend upon how many people you get. If the cost is adjusted, you might get more proffer amendments because, at \$10,000 a pop, they're not going to be standing in line and beating on your door to get that.

Mr. Howard: I think you're right. And, by the way, in the Commonwealth you cannot marry your property.

Mr. Hirons: Mr. Chairman, I will go on record saying my wife is well worth the price of a proffer amendment.

Mr. Howard: And that's part of the debate is actually what does it cost the County to have administration over those applications, whether it's a major or a minor, and I think that's what Mr. Harvey was eluding to. And that we don't know yet and we probably would want maybe a little bit more detail behind that, I think, as well.

Mrs. Hornung: And the current fee schedule was based on time from staff and, of course...

Mr. Howard: But you're saying a minor doesn't require the same amount of time.

Mrs. Hornung: We would hope not.

Mr. Howard: Well, we don't want to hope; we want to know.

Mrs. Hornung: I mean, a minor amendment would cost less staff time which, in essence, would be a reduced rate.

Mr. Howard: Right. So, if we could just know what that less time is, even if you can't quantify the amount, maybe it's twenty percent less time. This way we can understand directionally whether those fees are right or not. Because the last thing we want to do, the County should not be incurring money because we are trying to be "more business friendly". That shouldn't cost us money to do that; at the end of the day we're trying to generate more revenue at some point. So, it's got to be a balance and we would like to create that balance.

Mrs. Hornung: Thank you.

Mr. Howard: Thank you Mrs. Hornung. We'll move to the County Attorney's Report.

COUNTY ATTORNEY'S REPORT

Mrs. Roberts: I just would like to say thank you very much for dinner. It was absolutely wonderful.

Mr. Howard: Great! Yes, we had Cinco de Mayo. I had a special hat to wear but I forgot it. Committee Reports? Mrs. Hazard, I think you have a few reports.

COMMITTEE REPORTS

Mrs. Hazard: I do. Hopefully the members of the committee, on their email, received at our Comp Plan Committee meeting, a draft. Of course, it is a working document but it has been forwarded... I believe that was also going to be forwarded to the Board of Supervisors for their knowledge that it was

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going to be posted in case they received comments as well in case they did. Attached is a draft of Chapter 2. So, that was sent by email. If there have been any concerns about that or you didn't receive it, please let myself or Mr. Zuraf know. We are pressing forward with certainly new mandates created by the Commonwealth in the area of, well, certainly the UDAs but also in any other areas. I've seen some Chesapeake Bay, there was just some other comments that have been made trying to make sure that we are in compliance with those and that our planning document reflects the best knowledge that we have of current mandates. We are addressing a document that has been referred to us. Our committee hasn't formally looked at that yet and we are seeing how that overlays with the current policies that are on the table right now, trying to digest the new requirements; especially in the UDA area.

Mr. Howard: Okay. I also think Mr. Zuraf put on the County website, or is going to, what we're calling the Strawman document, in terms of outlining some of the UDA information and the RDA information that we're currently looking at.

Mr. Zuraf: I have not done that yet but I can place that on there.

Mr. Howard: Sure. I think full disclosure... and actually, can we email everybody here?

Mr. Zuraf: Sure.

Mr. Howard: Okay, that would be great.

Ms. Kirkman: So, Mr. Chair, now could someone explain to me what the distinction is being made between the RDAs and the UDAs?

Mr. Zuraf: Well, the RDAs, as you all may know, they are four areas, four distinct areas, that have been identified by the County and where the County has gone through extensive efforts to locate four areas in the County where they wanted to highlight and promote and encourage economic efforts. And those areas, they've generated the plans that have come before you and they include general land use criteria or general land use ideas, and other implementation ideas. They do differ from the UDAs in that they're not necessarily designed to correspond or to meet the Urban Development Area guidelines mandated by the state that we have to have within our Comprehensive Plan. They're not necessarily... the Redevelopment Areas aren't necessarily intended to meet like, for example, the four dwelling units per acre density requirements or required to accommodate ten to twenty years worth of growth. The Urban Development Areas will have to do that. So, that is the primary difference there. There may be, and when you see this document, there likely will be some overlap between the Redevelopment Areas and Urban Development.

Mr. Howard: It could be inside of the UDA.

Ms. Kirkman: And when you say this document, you mean the Strawman?

Mr. Zuraf: The Strawman document.

Ms. Kirkman: I don't understand the title. Why is it called the Strawman?

Mr. Howard: We had two meetings, Ms. Kirkman, and the first meeting I think Mr. Hirons reported on this last meeting was more directional, organizational, we did have some discussion on conceptually

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the RDAs, where would they be in the County based on some of the work that's been done; and then the UDA also, to Mr. Zuraf's point, being in compliance with the State mandates. So, discussion took place; conceptually we actually had, there were three Board members there. Actually there were four, Mr. Crisp was there, and he actually actively participated in the conversation and discussion. We took his thoughts and ideas and incorporated them into a document, sent it out to that small group first; said is this really what was conceptualized or not. Everybody said yes, absolutely, and then it was shared with a few others. I know Mr. Fields had received an email copy of it and it's called Strawman because it's kind of a working document. It's a work in progress; it's not set in stone. We'd love to get comments from you. We've received some from Mr. Fields. Comments that are constructive are always helpful and that would be good.

Ms. Kirkman: I'm sorry, I just haven't heard that term used before.

Mr. Howard: You haven't heard that? It's used all the time in business. A Strawman document is kind of a what-if scenario; it's usually referred to as a working document as well. So, it's kind of alive and changes and evolves as people have discussion and dialogue and think things through and think things out to say yeah, this would work or no that's not going to work there. But we still have to meet this UDA requirement of 14,000 units over twenty-something years so we have a number to get to, how do we get to that and where does that density take place within the county.

Ms. Kirkman: Well, I assumed you weren't referring to Strawman real estate schemes, so that's why I was asking.

Mr. Howard: No, I don't think so. That's a good question.

Mr. Fields: I posted some questions in my comments that I'm still looking for answers to; specifically, what the origin of all of those different UDA proposals that resemble exactly the previous development proposals that have never been applied for.

Mr. Howard: Well, I think one of the Board of Supervisors replied to you and asked you to explain to him or anybody where did you ever see those types of documents, because if they're out there, we'd love to see them as well.

Mr. Fields: Okay, boy, you need to see them because those are major development proposals; Sherwood Forest, Leeland Station.

Mr. Howard: Well, I think Mr. Sterling responded to your question.

Mr. Fields: Yeah, but he didn't answer my questions. He just wanted to debate me about the issue.

Mr. Howard: Well, maybe so, but I'd love to see it because I haven't seen any of that.

Mr. Fields: Well, I would certainly throw it into the mix since I can't attend these meetings.

Mr. Howard: And one of the things, quite frankly, we're looking at is the rail line and is there a way for the County... the County has, you know, a railroad going through it. Is there a way to leverage that and why wouldn't we want to do that. And if there are good reasons why not, we should talk about that. But that is going to help some of the density. If we don't create density, how the heck are people going to get around? I mean, the State is really putting a huge burden on our County to increase

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density over a period of time and be so specific about a UDA that we've got to be thinking... you know, everyone's got to be thinking differently and out of the box to accommodate that.

Ms. Kirkman: So, this Strawman document is a list of proposed UDAs and the joint Board/Planning Commission Committee came up with this list in one meeting without the assistance of staff. Because I think Mr. Harvey clarified for us that staff were told they weren't needed at that meeting.

Mr. Howard: They were told that but they are always welcome. They actually came to the second meeting and they can come to any meeting that they want.

Ms. Kirkman: But this is a document that came out of the first meeting.

Mr. Howard: This is a document that...

Ms. Kirkman: Because you referenced it, right Mr. Hirons?

Mr. Hirons: Yeah, and like I said, the first I saw the document was prior to the second meeting.

Mr. Howard: We all sat around the table, talked conceptually; I'm not sure what way you're going with the conversation. I don't have a problem explaining it. We sat around and talked about things conceptually, we had I think one or two maps on the table, we talked about where UDAs were proposed in the original Plan, which by the way some stayed in that, and talked about the density. We reread the requirement that the State is mandating and thought through... staff has estimated the density to be 14,000; and you know, thought through that, where would that be, what would that look like, recognizing we would want the UDA to obviously be in compliance with the requirement but also how to get sewer and water to it and all those things we thought through. Again, some of this, you're saying it came out of magic. There's a Comprehensive Plan draft that exists today. We took a lot from what is existing, so I would think that's a good thing.

Ms. Kirkman: I can't comment on that because I haven't seen the Strawman.

Mr. Howard: Well, we'll get it to you tonight.

Ms. Kirkman: And, Mike, that's going up on the website?

Mr. Zuraf: Or tomorrow morning.

Ms. Kirkman: Well, not tonight.

Mr. Howard: Question Mr. Fields. We have to have I think at least one more, maybe two, and we'll get it to you before the night before.

Mr. Fields: Yeah, you know, if you really want me to attend these things, you have to let me know about them. You've got to not put them at 7:30 on a Saturday morning. I've got thirty hours a week between Monday and Friday, 10:00 a.m. to 4:00 p.m.; I can be at a meeting any of those times. I can even tweak things here, but Saturday morning is right in the middle of when I make my living. So, if they continue to be on Saturday morning, if that's the only time the rest of the people can do it, that's fine. But then you should just take me off the committee because I can't possibly do that.

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Mr. Howard: Okay, thank you.

Mr. Zuraf: And to clarify the timeline I believe you received...

Mr. Howard: We did not, we were going to.

Mr. Harvey: Not yet.

Mr. Zuraf: Okay.

Mr. Howard: That was one more thing we wanted to hand out. So, this timeline is basically... again, we have to bring this to the Planning Commission to work on this as a group. But June 2nd, we'll be sitting here hopefully, and June 16th, in a work session, working through some of the details.

Mr. Zuraf: And just to clarify the two columns at the top where it does identify the weekly meetings basically with the PC Comp Plan Committee and Board/PC Comp Plan Committee. Those Board/PC Comp Plan Committees aren't necessarily set in stone. There's not actually been one scheduled right at this point. But the PC Comp Plan Committee, the May 6th, 13th, 20th and 27th, that's likely going to be needed and those meetings will likely happen, just to clarify.

Mr. Howard: And that's tomorrow.

Mr. Zuraf: Yes, we're meeting tomorrow at 6:00 p.m.

Mr. Howard: Yeah, and that's been a standing scheduled meeting. Mrs. Hazard, anything else on that?

Mrs. Hazard: No, that concludes my report.

CHAIRMAN'S REPORT

Mr. Howard: Great! Thank you. So now the Chairman's Report. Well, we didn't answer the TRC question which is May...

Mr. Harvey: May 26th at 9:00 a.m.

Mr. Howard: That's a Wednesday?

Mr. Harvey: Yes sir.

Ms. Kirkman: So, Mr. Chair, if I could, just to go back to one thing. And maybe once I see this Strawman document it will be a little clearer. But Mr. Fields asked about where did these projects come from and you stated that you hadn't seen any plans. So, I guess what I'm wondering, you know, I know for instance Mr. Garrett was going around meeting with a number of people. So, you've not met with any developers about any of the projects that are on the UDA list?

Mr. Howard: Now, why would you ask me that question?

Ms. Kirkman: I'm just trying to understand...

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Mr. Howard: Where are you going with this, Ms. Kirkman? What are you implying? What are you trying to do here?

Ms. Kirkman: I'm not trying to imply anything.

Mr. Howard: Oh really?

Ms. Kirkman: I'm just asking where these projects came from.

Mr. Howard: Well, I haven't met with a developer, so what's your point?

Ms. Kirkman: I'm sorry, I didn't hear what you said.

Mr. Howard: I haven't met with any developers. What is your point Ms. Kirkman? Are we in a court of law? Am I under oath?

Ms. Kirkman: No.

Mr. Howard: What is your point for advancing that?

Ms. Kirkman: I was curious where these projects came from.

Mr. Howard: Ms. Kirkman, I've answered that question. We met as a group. We talked conceptually. We looked at maps. Maybe you're also implying Mr. Crisp was meeting with developers; I don't know. But he was there, he gave some very good input, good insight, we had a great discussion, and we came up with some thoughts conceptually. We put them into a document, set them out as notes, we called it a Strawman document. So, where are you going with that?

Ms. Kirkman: I was just getting clarification on the process.

Mr. Howard: But I've answered the question. So, what's the point of (inaudible).

Ms. Kirkman: Now you have.

Mr. Howard: No, I've answered it several times. So what is your point? Why don't you step up, be a grown-up and why don't you say what you are trying to say.

Ms. Kirkman: I simply was seeking clarification on the process.

Mr. Howard: I don't think that's the case. And I think it's inappropriate and I think we had some inappropriate discussions last time. And, quite frankly Ms. Kirkman, we're not going to have the politics here on the Planning Commission and I don't want it, I don't think you want it, and I don't want to get nasty. And this is not the place for that. So, if you have a problem, you have a Board of Supervisor who appointed you; you can certainly speak to that individual. That individual has copies of everything that we're talking about. If that person is not sharing it, then I don't know what to tell you. But to make implications about developers and have I met with people, I think that's absolutely uncalled for, unacceptable and you owe me an apology for that. And you owe a lot of people an apology for the way you speak to them and innuendos and accusations that you make towards them, and this is going to come back some day and get you in trouble. So, words of advice is stop making

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innuendos and accusations at people because it's inappropriate. Okay? Nobody does that to you although we could, but we don't. We choose to act professional and we choose to treat you with respect. And I'm asking you to do the same to me and every other member on this Commission.

Ms. Kirkman: Mr. Chair, I was simply seeking clarification on a process that led to the creation of this document.

Mr. Howard: Then I accept your apology Ms. Kirkman. Thank you. So the last thing on the Chairman's Report was kind of what we talked about with Andrea, that instead of having each one of us asking individually for things, I'd like to coordinate with Mr. Harvey at this meeting, in the public view, of all the things that we're asking staff to work on because in recent months, we've had them working on quite a bit of information only to come to a meeting, share it all, volumes of papers and volumes of data and research that sometimes are germane to the topic at hand and at other times, it's not really changing the outcome of what's going to happen. And they spend an awful lot of time and energy that we could be doing other things with. So, just the way we did it I thought was great. You know, we agreed on 2005; we thought that was a good time to go back to. Andrea will come back with some research and I think we all agreed to that. I'd like to see that happen going forward. So, that was my goal so we don't waste anymore time and energy. Any other business?

Mr. Mitchell: Approval of minutes.

OTHER BUSINESS

APPROVAL OF MINUTES

March 17, 2010

Mr. Howard: Okay.

Mr. Mitchell: Mr. Chairman, I make a motion for the Stafford County Planning Commission March 17, 2010 minutes.

Ms. Kirkman: I'll second.

Mr. Rhodes: Mr. Chairman, I would just like to highlight that this one now is within the forty-nine day window, Stacie. Very good, thank you very much.

Mr. Howard: She's getting better.

Mr. Fields: Thanks Stacie.

Mr. Howard: Great. Okay, all those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

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Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Any opposed? Motion carries 7-0. And our meeting is adjourned. Thank you.
Happy Mother's Day to all those who are moms.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 10:17 p.m.

Gordon Howard, Chairman
Planning Commission